Santa Clara Valley Water District Resolution No. 18-50

RESOLUTION NO. BOS-2018-85

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AND THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT APPROVING SHARED PRINCIPLES AS A FRAMEWORK FOR THE LAND USE RELATIONSHIP BETWEEN THE PARTIES

WHEREAS, the County of Santa Clara Board of Supervisors ("County") and the Board of Directors of the Santa Clara Valley Water District ("District") held a joint meeting on May 18, 2017 related to public recreation at District property, including reservoirs and other joint engagements between the parties; options to develop a master partnership agreement between the parties that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including trails development, natural resource management, and public recreation at District facilities to obtain direction regarding mutual commitments and processes to coordinate efforts directly for, or associated with, recreation, including planned land acquisition, construction of recreational improvements, pond/lake and stream reconfiguration, and trail development; and,

WHEREAS, based on direction from both Boards at the May 18, 2017 meeting, County and District staff have collaborated to develop certain shared principles (the "Shared Principles") as stated herein below:

1. **Common Goals and Service Populations.** The District and the County share common goals and service populations. A portion of our land holdings are inextricably linked, and the public does not recognize any demarcation in ownership, but rather values flood protection, safe clean water, environmental stewardship and the seamless access and recreational experience our joint system provides. Our agencies have worked together for the common good of the Santa Clara County community for over 60 years.

    a. The Santa Clara Valley Water District Act ("District Act"), along with the District's Board-approved Ends Policies, sets out District powers and goals which, in some instances, are aligned with the County's park purposes and goals, including the following:

        i. Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out purposes as defined in the District Act (Section 4c (7) of the District Act).

        ii. Preserve open space and support the County park system in a manner consistent with carrying out purposes as defined the District Act (Section 4c (8) of the District Act).

        iii. The District has the power to acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any

Adopted: 08/14/2018

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dam, reservoir, or other works owned or controlled by the District (Section 5 (16) of the District Act).

b. The County's Charter provides powers to operate and fund Parks and Recreation functions. The County General Plan identifies numerous strategies, policies, and goals to support a regional system of parks and trails and to protect natural resources, including water quality, and biotic habitats. The general plan further identifies inter-jurisdictional coordination as a key strategy to achieving these goals.

   In support of County's General Plan, the Board-approved Strategic Plan establishes the Parks mission and vision:

   i. Provide, protect, and preserve regional parks lands for the enjoyment, education, and inspiration of this and future generations.
   ii. Create and manage a sustainable, vibrant system of regional parks and trails where exceptional visitor services enrich the human spirit and offer all people the opportunity to connect with the County's protected natural, cultural, historic and scenic resources, consistent with responsible resource stewardship.
   iii. The County General Plan also includes a policy and implementation goals supporting flood protection measures, including resource conservation, preservation of riparian vegetation and habitat, recreation, and scenic preservation of county streams and creeks.

2. **Public Access/Recreation Compatible with Watershed Protection.** Providing safe, reliable drinking water, providing for a safe and healthy community and environment through managing natural resources, and mitigating flood risk may be compatible with providing public access and recreational use of the shared system of land and facilities managed by the District and the County, subject to the California Environmental Quality Act ("CEQA") and approval from the various permitting agencies.

3. **Shared Natural Resources Stewardship Goals.** Both the County and the District have a shared responsibility for watershed stewardship relative to each agency's powers and purpose.

4. **Collaboration Leverages Our Strengths and Avoids Waste.** Collaboration on jointly funded District and County projects or endeavors, leveraging our individual strengths, and optimizing each agencies' resources, as appropriate, can maximize the public good and generate efficiencies to each agency. This collaborative approach should be consistently defined as a line staff responsibility and the leadership of each

agency should seek to empower its staff to make decisions that promote our mutual goals. A periodic review of the working relationship between the agencies to ensure implementation of this collaborative culture would be beneficial;

WHEREAS, the purpose of these Shared Principles is to frame the District-County land use relationship for existing and future agreements and interactions relating to County parkland and District properties. These Shared Principles shall be re-evaluated every five years so that the District and County may determine whether to update or revise the Shared Principles which shall only be done by approval of both the County's Board of Supervisors and the District's Board of Directors; and

WHEREAS, County's Board of Supervisors and District's Board of Directors individually retain their full legislative discretion to take other actions with respect to this Resolution as each may deem appropriate.

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NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, and the Board of Directors of the Santa Clara Valley Water District, that the Shared Principles are hereby adopted and approved.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on August 14, 2018, by the following vote:

AYES: CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

S. J. Si

S. JOSEPH SIMITIAN, President
Board of Supervisors

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President, Board of Supervisors.
ATTEST:

MEGAN DOYLE, Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Shirley R. Edwards, Deputy County Counsel

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SCVWD Resolution No. 18-50

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District, on August 14, 2018, by the following vote:

AYES: T. Estremera, J. Varela, N. Hsueh, B. Keegan, G. Kremen, L. LeZotte, R. Santos

NOES: None

ABSENT: None

ABSTAIN: None

RICHARD P. SANTOS,
Chair of the Board of Directors

ATTEST:

Michele King,
Clerk of the Board of Directors

APPROVED AS TO FORM:

Brian C. Hopper
Sr. Asst. District Counsel

MASTER LICENSE AGREEMENT
BY AND BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT AND
THE COUNTY OF SANTA CLARA FOR
MUTUAL ACCESS TO COUNTY OF SANTA CLARA PARKLAND AND
SANTA CLARA VALLEY WATER DISTRICT PROPERTY

This is a License Agreement ("Agreement") entered into by and between the County of Santa Clara, a political subdivision of the State of California ("COUNTY"), and the Santa Clara Valley Water District, a Special District of the State of California ("SCVWD"), effective upon the date fully executed by both parties ("Effective Date"), to allow SCVWD to enter COUNTY's parkland property for the purposes described below, and to allow COUNTY to enter SCVWD property for the purposes described below. Collectively, both SCVWD and the COUNTY are "Parties" and each individually is a "Party" to this Agreement as referenced herein.

Approved: 08/14/2018

RECITALS

WHEREAS, the Parties periodically request licenses or permits from each other to access the other's property to conduct activities for a variety of public purposes (including park purposes and water management purposes);

WHEREAS, it is in the best interests of both Parties to expedite the processing and approval of these license or permit requests between and among them;

WHEREAS, This Agreement is authorized pursuant to Government Code 25536, in that by four-fifths vote, the County of Santa Clara may enter into this Agreement with SCVWD for the fulfillment of park purposes;

WHEREAS, the Parties recognize that the purpose of this Agreement is to allow the License Activities (as described herein below) to occur on all County owned parkland within the County of Santa Clara at the request of SCVWD, and License Activities to occur on all applicable SCVWD property within the County of Santa Clara at the request of County Parks, subject to individual project-specific approvals from COUNTY or from SCVWD, as set out herein below;

WHEREAS, over the past 40 years, the DISTRICT and the COUNTY have mutually supported joint use of the District and County properties to provide recreational opportunities consistent with DISTRICT policies and statutes and, in support of this complementary effort, the Parties have recently developed shared "Shared Principles" through a joint Resolution, which is attached to and incorporated into this Agreement by this reference as Exhibit "A" and which shall be null and void and of no effect for purposes of this Agreement (without any need to amend this Agreement) upon the rescission of the joint Resolution; and,

WHEREAS, this Agreement is in the public's interest and the proposed License Activities will not substantially conflict with or interfere with the COUNTY's parkland purpose or use and SCVWD's water management and flood protection purposes or use so long as such License Activities are conducted in compliance with this Agreement.

NOW THEREFORE, the PARTIES agree to the foregoing and as follows:

1. LICENSE AREA.

a. Excluding land that is the subject of an existing agreement by and between the District and the County (e.g., the Master Partnership Agreement), the "License Area" includes the following:

- All County parkland that is owned and managed by the Parks and Recreation Department within the geographical boundary of the County of Santa Clara, including such lands as may be acquired in the future, a general description of which can currently be found at https://www.sccgov.org/SITES/PARKS/Pages/Welcome-to-Santa-Clara-County-Parks.aspx, and more particularly described in the streaming Geographic Information System ("GIS") data sets which shall be provided to SCVWD by COUNTY;

- All lands owned by the SCVWD within the geographical boundary of the County of Santa Clara, including such lands as may be acquired in the future, excluding all SCVWD-owned or operated offices, business facilities, treatment plants, above-ground pipelines, pump stations and other water utility facilities ("Critical Facilities") within the County of Santa Clara, a general description of which can currently be found athttps://gis.valleywater.org/FeeEasement, and more particularly described in the streaming Geographic Information System ("GIS") data sets which shall be provided to COUNTY by SCVWD.

b. Neither Party warrants or represents to the other Party that the License Area is safe, healthful, or suitable for the License Activities authorized under this License. Each Party represents and warrants to the other Party that it has conducted its own investigations, has inspected the License Area, has made its own independent determination as to the condition and use of the License Area, is familiar with the present condition of the License Area and accepts the License Area in its "AS-IS" "WHERE-IS" "WITH ALL FAULTS" condition. Neither Party shall not have any obligation to make any alterations, repairs, maintenance or improvements to the License Area prior to the commencement of the Term or at any time thereafter.

c. Furthermore, each Party accepts this License subject to all existing permits, licenses, limitations, conditions, requirements, leases, easements, and any other conditions, restrictions or obligations attaching to the License Area, together with any future installations, restrictions, limitations or requirements. This Agreement is not intended to supersede other existing agreements between the County of Santa Clara and the Santa Clara Valley Water District.

d. For purposes of this Agreement, a Party making a request to use the other Party's real property is referred to herein as the "Requestor" and a Party granting the request is the "Requestee."

e. A Requestor assumes all risks arising from entry to or use of the License Area and performing or conducting the License Activities. A Requestor, on behalf of itself and its employees, agents, representatives, officers, directors, board members, affiliates, partners, managers, consultants, subconsultants, contractors, subcontractors, guests, visitors and invitees (each and collectively the "Requestor Affiliates"), waives any and all claims against the Requestee and its employees, agents, representatives, officers, directors, board members, partners, managers, consultants, subconsultants, contractors, subcontractors, guests, visitors and invitees (each and

collectively the "Requestee Affiliates") for any and all personal injury, death, property damage or other damages to Requestor, or the Requestor Affiliates, arising out of, relating to or in any way connected with the License Activities or entry upon or use of the License Area. This assumption of risk does not apply to those claims against Requestee or against any Requestee Affiliates directly caused by the gross negligence or willful misconduct of the Requestee or any of the Requestee Affiliates.

2. TERM.

This License is valid for five years from the Effective Date, unless either Party sooner revokes or terminates this Agreement pursuant to Section 6 below (the "Initial Term"), with three renewal terms of five (5) years ("Renewal Term") subject to the written approval of both Parties. Parties are under no obligation to renew the License and may take into consideration the totality of the circumstances, the existing use, any defaults or potential defaults and/or Parties' future intended or potential uses of the License Area. The Initial Term and the Renewal Term are each referred to herein as the "Term" in this License.

3. THE CONSIDERATION.

In consideration for the License granted herein, and in lieu of paying any license or permit fees, each Party represents, warrants and agrees to comply with all terms and conditions of this Agreement at all times during the Term, for the benefit of and service to the public not inconsistent with COUNTY park purposes or use and SCVWD water management purposes or use, and each Party shall exempt the other from any and all COUNTY-issued or SCVWD-issued fees for encroachment permits, construction permits, permits-to-enter, licenses, approvals or temporary permits for the License Activities.

4. THE LICENSE AND LICENSE ACTIVITIES.

a. During the Term and subject to prior written approval as set forth in Section 5 herein, the COUNTY herein grants to SCVWD, and SCVWD herein grants to COUNTY, a limited, revocable, non-exclusive, non-assignable and temporary use of the License Area, subject to all of the terms and conditions contained in this Agreement, for purposes characterized as temporary or minor in nature including but not limited to by way of example, the following "License Activities", on a case-by-case basis ("Project Approval" basis), subject to the requirements set out in Section 5 below):

- Ingress and egress across a Requestee's property for public purposes;
- Limited site assessment, surveying and monitoring activities, including but not limited to trail planning, evaluations and analysis, water quality monitoring, vegetation monitoring, and limited collection of samples of natural resources;
- Temporary staging of equipment and temporary parking of vehicles and equipment;
- Minor construction, maintenance or vegetation management activities, such as sign or wildlife camera installations, fencing, minor grading, or vegetation management to facilitate

access;

- Stream gage installation, inspection, and maintenance;
- Exploratory soil borings; and,
- Removal of invasive species.

b. Each and every License Activity shall be carried out in full compliance with all terms and conditions of this Agreement and in strict compliance with all applicable local, state and federal laws, including, but not limited to, the California Environmental Quality Act ("CEQA"). In the event of conflict between the project-specific Requestee requirements of an individual Project Approval and this License Agreement, the more strict provision will prevail.

5. PROCESS FOR SUBMITTAL OF INDIVIDUAL PROJECT REQUESTS UNDER THIS AGREEMENT.

a. **Project Application Submittal**. Prior to entering the License Area and prior to engaging in any License Activities, Requestor must first receive written approval from Requestee as set forth in section 5(b), and Requestee's approval to such request shall not be unreasonably conditioned, delayed or denied. Requestor shall request the "Project Approval" by submitting to the Requestee (as per the noticing provisions of Section 7 below), the following:

- SCVWD shall submit to COUNTY the *Scope of Work and CEQA Compliance* application (as amended from time to time), attached hereto as Exhibit "B".
- County shall submit the attached *Encroachment Permit* application (as amended from time to time) Exhibit "C"; any and all fees stated in the *Encroachment Permit* application are hereby waived.

b. **Notice to Proceed.** Prior to granting a Project Approval, Requestee will consider each individual request and Requestor shall submit any additional materials reasonably requested by Requestee prior to Requestee granting a Project Approval. Upon Project Approval, Requestee shall issue to Requestor a notice to proceed "NTP" for the specified License Activities, as follows:

- The NTP issued to SCVWD will be in the form of the County's written Notice to Proceed document. The NTP issued to County will be in the form of an executed SCVWD Encroachment Permit using the form or similar attached herein and incorporated by reference as Exhibit "D";

The NTP is evidence of a Project Approval for specifically-identified License Activities. Upon receipt of an NTP, Requestor may enter the License Area and perform the Project Activities as described in the NTP.

c. **Project Completion**. Within five business (5) days after completion of the project, SCVWD shall provide written verification of project completion to County at the end of the project using

the form or similar attached herein and incorporated by reference as Exhibit "F" ("Project Completion"). Within five (5) business days after completion of the project, County shall provide written verification of project completion to SCVWD at the end of the project. Written verification from the Requestor shall include sufficient documentation evidencing restoration and clean up of the License Area.

d. Project Term Extension.

1. Upon written request from SCVWD not less than forty-five (45) days prior to the expiration of the approved License Activities term, SCVWD shall have the right to request extension of the term of the approved License Activities, such approval to be granted at the County's sole discretion.
2. Upon written request from County not less than twenty-one (21) days prior to the expiration of the approved License Activities term as shown on the executed Encroachment Permit, County shall have the right to request extension of the term of the approved License Activities, such approval to be granted at the SCVWD's sole discretion.

6. TERMINATION; REVOCATION.

Either Party may terminate this Agreement in whole or in part or revoke this License as to all Project Approvals or any one or some Project Approvals, for convenience and for any or no reason at any time, regardless of Requestor's expense, liabilities, commitments, contracts, permits or labor incurred or to be incurred. Revocation or termination shall be effective on the date either Party provides the other with written notice of said revocation or termination. If this License or this Agreement is revoked or terminated, in whole or in part, by either Party, neither Party shall be entitled to and neither shall seek, nor authorize anyone else to seek or obtain on its behalf or others, any claim, commitment, fees, reimbursement, expense, cost or damages of any kind or nature from or against the other Party or Party's affiliates.

7. NOTICE.

a. Requestor shall follow the Project Approval process as outlined in Section 5 above for each and every License Activity. To constitute effective notice of a request for Project Approval, all notices and communications for any Project Approval shall be served by hand-delivery, by electronic-mail ("email"), by United States first-class mail (postage prepaid and in a self- addressed envelope or package), or by private messenger or commercial carrier, addressed as follows:

COUNTY:	SCVWD:
Real Estate Services County of Santa Clara Parks and Recreation Department c/o Diane New, Real Estate Agent 298 Garden Hill Drive Los Gatos, California 95032	Community Projects Review Unit Santa Clara Valley Water District c/o Usha Chatwani, CPRU Manager 5750 Almaden Expressway San Jose, California 95118 Phone No: (408) 630-2731

Phone No: (408) 408-355-2213 Email: Diane.New@prk.sccgov.org	Email: uchatwani@valleywater.org, cpru@valleywater.org

b. For all other notices under this Agreement, notice shall be in writing and served by hand-delivery, by United States first-class mail (postage prepaid self-addressed envelope or package), or by private messenger or commercial carrier, addressed as follows:

COUNTY: Real Estate Services County of Santa Clara Parks and Recreation Departments Attn: Diane New, Real Estate Agent 298 Garden Hill Drive Los Gatos, California 95032 With a Copy to: County of Santa Clara Office of County Counsel 70 W. Hedding Street, East Wing, 9th Floor San Jose, CA 95110 Attention: Shirley R. Edwards, Deputy County Counsel	SCVWD Community Projects Review Unit Santa Clara Valley Water District 5750 Almaden Expressway Attn: Usha Chatwani, CPRU Manager San Jose, California 95118 With a copy to: District Counsel Santa Clara Valley Water District 5750 Almaden Expressway San Jose, California 95118 Attention: District Counsel

c. Notices or communications sent by email, or hand-delivery (in person, private messenger or commercial carrier) shall be deemed communicated and received as of the actual receipt date; and, mailed notices or communications shall be deemed communicated and received as of three calendar days after mailing, unless such date is a date on which there is no mail service; in that event, notice is deemed to have been communicated and received on the next mail service day.

d. In the event of an emergency, communication by more expedient means is authorized, such as by telephone, to accomplish timely communication. Telephone or email notices will be followed immediately with written notice as set out in Subsection b of this Section 7. The deemed delivery date shall be as set out in section 8.c. above.

e. Each Party may change the address by providing advance written notice to the other Party in accordance with this section.

8. EXHIBITS.

The following exhibits are attached to and incorporated into this Agreement by this reference:

Exhibit A: Joint Resolution (Shared Principles) of SCVWD and COUNTY

Exhibit B: COUNTY Scope of Work and CEQA Compliance Application Form (to be completed by SCVWD)
Exhibit C: SCVWD Encroachment Permit Application (to be completed by COUNTY).
Exhibit D: Encroachment Permit Issued to County by SCVWD
Exhibit E: Project Completion Submittal Form

9. VEHICLE, FIRE AND PESTICIDE SAFETY.

For County-issued Project Approvals, the Requestor shall also be responsible for locating the following procedures documents and complying with the following procedures:

- the COUNTY's ***Integrated Pest Management Requirements,*** as updated from time to time by County and currently found at https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITBREDIVB28INPEMAPEUS;

- The rules for operating equipment under the ***Santa Clara County Parks and Recreation Department Roads and Airport Department Fire Prevention Operational Procedure*** manual, as updated from time to time by County and currently found at www.ridethetrack.com/wp-content/uploads/2014/04/CDF-MOU-2012.pdf

    - Only wheeled vehicles and boats shall be permitted to operate within the License Area, except as noted below. SCVWD will ensure that SCVWD's vehicles and vessels, and those of SCVWD Affiliates, use County-designated motor vehicle routes and are parked within County's designated parking zones, as specified in the Project Approval. County may require that SCVWD and SCVWD Affiliates stay on designated roads. All vessels that may be used by SCVWD Affiliates in any waterway shall be subject to inspection and quarantine for invasive species (e.g., quagga or zebra mussels) by COUNTY or COUNTY Affiliates.
    - SCVWD and SCVWD Affiliates will use effective dust control measures throughout the Term of this License.
    - For License Activities specifically authorized under a Project Approval, the following exceptions may be authorized, if justification is explained in the SCVWD individual project request submitted as per Section 5 above, and COUNTY grants written permission in the Project Approval:
        - Use of non-wheeled or special equipment not otherwise allowed under this License;
        - If no designated parking zones exist, SCVWD must describe and depict the proposed parking area with the project request, and, if approved, SCVWD may drive into off-road areas and to park vehicles outside official parking areas.

- The County's ***No Smoking Ordinance,*** as updated from time to time by County, currently found at: https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITBRE_DIVB13OFIS_CHVGEREUSTOPRELSMDE

10. TREE REMOVAL AND VEGETATION REMOVAL/WORK.

Each Requestor is strictly prohibited from removing or trimming any trees within the Requestee's Property including the License Area without the prior written consent of the Requestee.

11. SITE SAFETY MEASURES.

a. During the term of this License, all COUNTY parkland will remain open to the public, subject to COUNTY's reasonable and sole discretion.

b. Requestor will take reasonable precautions using best management practices to protect the License Area and third-party users (e.g. park visitors) of the License Area against and from all injury, illness, death and property damage that may result from any of the License Activities, and shall conduct the License Activities in a manner that will minimize disruption to third party users. Certain License Activities may require restricting public access temporarily to ensure public safety subject to prior written approval of the Requestee. In such cases, the Requestor shall coordinate signage requirements with the Requestee prior to approval of any temporary closure.

12. RESTORATION OF SITE AND PROJECT COMPLETION NOTICE.

a. Restoration at Termination. Upon revocation, termination or expiration of the License, any Project Approval or the Agreement, in whole or in part, Requestor and all Requestor Affiliates shall immediately vacate all License Areas (or those License Areas specifically implicated by the termination or revocation) and remove all equipment and materials, and restore the License Area to its original condition as it existed prior to the License Activity taking place. Should Requestor or the Requestor Affiliates fail to remove or dispose of all equipment, materials and other personal property, then Requestee may consider the personal property abandoned and may claim proper title to it or dispose of it at Requestor's sole expense. However, under no circumstances shall Requestee become or be considered the owner or operator of any Hazardous Material left on, in, under or about the License Area or anywhere on Requestee's property by Requestor or any of the Requestor Affiliates, regardless of whether Requestee elects to initiate clean up or disposal of such Hazardous Material or not. Requestor represents, warrants and agrees that at all times, including after termination or expiration of this Agreement or revocation of the License, in whole or in part, Requestor shall be solely responsible and liable, as the owner and operator, for all Hazardous Material brought onto, generated or used on, in, under or about the License Area in relation to the License Activities or any other actions or inactions of Requestor or any of the Requestor Affiliates.

b. Restoration at Completion. Completion of the License Activities for which a Project Approval has been issued, shall include removal of all equipment, material and/or debris accumulated from the License Activities, and restoration of the License Area to its original or better condition; however, Requestee may grant written individual project exceptions upon request by Requestor. The County's Director or designee or the SCVWD's CEO or designee will reasonably determine the adequacy of the Requestor's site restoration efforts.

c. **Completion Documentation.** The Requester and Requestor Affiliates shall comply with the provisions of Section 5(c) above.

13. HAZARDOUS MATERIALS.

a. Definition: "Hazardous Materials". "Hazardous Materials" or "Hazardous Material" (as referenced interchangeably) shall mean any hazardous or toxic substance, material or waste at any concentration that is or becomes regulated by the United States, the State of California or any local government authority having jurisdiction over Requestor, any Requestor Affiliates, the Requestee's property, the License Area or the License Activities, regardless of whether such activities occur on or off the Requestee's property. Hazardous Materials includes, without limitation, any "hazardous substance," "hazardous waste," "hazardous material, " toxic substance," "solid waste," or "pollutant" or "contaminant" either/or as defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC Sections 9601, et. seq.; the Resource Conservation and Recovery Act (RCRA), 42 USC Sections 6901, et. seq.; the Toxic Substances Control Act (TSCA), 15 USC Sections 2601, et. seq.; the Federal Insecticide, Fungicide, Rodenticide Act, 7 USC Section 136, et. seq.; the Occupational Safety and Health Act, 29 USC Section 655 and 657; the Clean Air Act, 42 USC Section 7401, et. seq.; the Clean Water Act, 33 USC Section 1251, et. seq.; the Safe Drinking Water Act, 42 USC Section 300f, et. seq., the California Hazardous Substances Account Act, Health and Safety Code Section 25300, et. seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25090, et. seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 24249.5, et. seq., the Porter-Cologne Water Quality Act, Water Code Section 13000, et. seq., or any other law where ever found, together with any amendments of or regulations promulgated under any such laws, and any other environmental, health or safety federal, state or local law, statute, ordinance or regulation now in effect, as amended, or later enacted that pertains to, applies to, regulates or involves Requestor, any Requestor Affiliates, the Requestee's property, the License Area or License Activities, ambient air, soil, soil vapor, groundwater, surface water, biowaste or land use. This shall include, without limitation, any asbestos or Polychlorinated biphenyls ("PCBs").

b. Hazardous Materials within the License Area. During the activities under this License, Requestor and the Requestor Affiliates shall not permit, and shall ensure that no, Hazardous Material to be generated, brought onto, used, stored, transported, handled, managed, packaged or disposed of on, in, under, over or about the License Area.

c. Requestor Indemnification. Requestor and Requestor Affiliates shall indemnify, defend and hold Requestee and the Requestee Affiliates harmless from, for and against any and all claims, demands, judgments, damages, allegations, liabilities, punitive damages, death, personal injury, property damage, losses, costs, expenses (including attorney's fees and costs, consulting fees and expert fees), response and removal costs (including costs associated with site restoration, monitoring, corrective action, or closure), civil penalties and fines arising out of, relating to or in connection with the handling, transportation, labeling, documentation, storage, use, generation, treatment, manufacture, disposal, investigation, management or release of any Hazardous Materials within the License Area relating to, resulting from or connected with any of the License Activities or any other action or inaction of Requestor or Requestor Affiliates.

d. Notice and Removal. If any Hazardous Materials are released, used or brought upon the License Area by Requestor or any of the Requestor Affiliates, Requestor shall immediately cause such Hazardous Materials to be cleaned up, handled and removed from the License Area in compliance with all laws. Requestor shall immediately notify Requestee when Requestor or Requestor Affiliates first learn of, or have reason to believe that, a release of Hazardous Materials has occurred in, on, under, near or about the License Area. Requestor shall further comply with all laws requiring notice of such releases or threatened releases to all governmental or quasi-governmental agencies and authorities, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event that there is a release of Hazardous Materials, Requestor shall, without cost to Requestee and in accordance with all laws and regulations, return and restore the License Area to the condition immediately prior to the release. In connection therewith, Requestor shall afford Requestee a full opportunity to participate in any discussion with governmental agencies and authorities regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Materials and shall not settle any such violation without the full consent of Requestee.

e. Survival of Conditions. Requestor's and the Requestor Affiliates' obligations under this section 13 shall survive the termination, expiration or revocation of any Project Approval, all Project Approvals, the License or this Agreement, in whole or in part. If any inconsistency between this section 13 and any other part of this Agreement or any or all Project Approval(s) is found, the more stringent provisions shall control.

14. OTHER LICENSE CONDITIONS ATTACHING TO ALL LICENSE ACTIVITIES.

a. Requestor will not, nor will Requestor allow anyone else to, remove, relocate, alter or modify any existing portion of the License Area nor attach, affix, or permit to be attached or affixed anything upon or to the License Area, including but not limited to flags, placards, signs, poles, wires, aerials, antennae, ladders, stairs, ramps, or any other structures, improvements or fixtures, without the prior written consent in each instance of the Requestee, which consent may be granted or withheld in the Requestee's sole and absolute discretion. .

b. Requestor shall at all times maintain the License Area and all equipment and furnishings found therein, in good repair and in a clean, neat, sanitary and safe condition. Requestor shall store all trash in refuse containers provided by Requestor and shall empty the containers after each use of the Requestee's property in accordance with all local, state and federal laws, County policies (for County property) and District policies (for District property). Requestor shall not permit any debris to remain or obstruction to exist on or about the License Area.

c. Requestor shall be liable, and shall reimburse Requestee, for all expenses incurred by Requestee for any and all work, repairs, maintenance and replacement of property (both real and personal) that results from Requestor's use of the License Area in violation of this Agreement, or from the negligent, willful or intentional actions or inactions of Requestor or Requestor Affiliates who use or have access to the License Area; in such case, Requestor shall submit a scope of work for repair and/or restoration to Requestee prior to commencement of work.

d. Requestor or Requestor Affiliates shall obtain and pay for all third party and third party regulatory agency permits and licenses, that may be or are required for the use of the License Area Only Requestor shall submit a request for a Project Approval, including for those requests made on behalf of Requestor Affiliates.

e. Requestor and the Requestor Affiliates shall not allow or conduct any nuisance anywhere on the License Area.

f. Requestor shall ensure that the License Area is secure from crime and criminal activity at all times during the Project Term and shall provide adequate, complete training to all Requestor Affiliates on how to protect against and report suspected criminal activities and how to secure the License Area against criminal activities and to ensure the safety and protection of users of the License Area during the Project Term.

15. MISCELLANEOUS PROVISIONS.

a. Laws. Each Party shall comply with all laws, regulations, and administrative orders applicable to the License Activities, obtain all permits which may be required by public agencies having jurisdiction over the Party's License Activities, and comply with all conditions and requirements of such public agencies at each Party's sole cost, liability and expense.

b. No Lease. No legal title, leasehold interest or other interest in or to the License Area shall be construed to have been created or vested in Requestor or Requestor Affiliates as a result of this Agreement, or the use or occupancy of the Requestee's property by Requestor or anyone else. IF APPLICABLE, REQUESTOR AND REQUESTOR AFFILIATES EACH WAIVE ANY AND ALL RIGHTS OFFERED TO TENANTS OF COMMERCIAL REAL PROPERTY UNDER FEDERAL, STATE AND LOCAL LAWS AND ORDINANCES, INCLUDING BUT NOT LIMITED TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 1161 AND FOLLOWING.

c. No Relocation Assistance.

1. It is understood that this Agreement is intended to give the Requestor a temporary conditional use of the License Area for the Project Term. The Parties acknowledge, understand and agree that neither Party nor any of the Party's Representatives, or any subcontractor, visitors, guests, customers, occupants or users of the License Area shall be entitled to claim, seek or obtain relocation benefits, assistance, damages (liquidated or otherwise), costs, claims or fees from the other Party or the County upon expiration, termination or cancellation of this Agreement, except as expressly and specifically provided for elsewhere in this Agreement.

2. At Requestee's discretion and upon Requestee request, Requestor, its successors and assigns, shall deliver the License Area, at Agreement termination, to Requestee free from all occupancies and tenancies of every nature or kind. With respect to all occupancies and tenancies on the License Area, Requestor, its successors and assigns, shall be solely and exclusively liable and responsible for notice and payment of any and all relocation costs and expenses required to be paid in accordance with applicable laws, regardless of whether or not such legal obligations

are those of the Requestor or the Requestee. Requestor and its successors and assigns, and not Requestee, shall be solely responsible and liable for paying all relocation assistance and for providing all noticing pursuant to applicable law.

3. Nothing in this License shall be construed as relieving, nor does it relieve, the Requestor, its successors and assigns, of any prior, existing or continuing obligation(s) to comply in any or all respects with any and all applicable statutes and regulations, including but not limited to (if applicable) California Health and Safety Code Section 52080 et seq. (e.g. affordability obligations and/or relocation assistance for tenants) and California Government Code Sections 65863.10 through and including 65863.13 (e.g., notice to tenants).

4. Requestor Indemnity For Notice and Relocation Obligations. Requestor represents, warrants and agrees to defend, indemnify and hold harmless the Requestee and each of the Requestee Affiliates from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with any obligation to provide or any failure to provide adequate notice or relocation assistance, excepting only such loss or damage which is directly caused by the sole gross negligence or willful misconduct of the Requestee or Requestee Affiliates. The Requestor will conduct all defenses at its sole cost and expense. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of Agreement, its affiliates or any other parties are applicable thereto.

d. Non-Exclusive Agreement. The Parties agree that this Agreement is non-exclusive and each Party may at any time, in its sole discretion, enter into license agreements with other parties for the use of the License Area for any purpose deemed to be in the best interest of that party.

e. Prevailing Wage
Requestor acknowledges and agrees that work performed under this Agreement may be considered a public work within the meaning of California Labor Code Section 1720 and that the requirements of Section 1771, et. seq. applies to such public work. Requestor is solely responsible and liable for ensuring that it and its contractors and subcontractors comply with any applicable prevailing wage laws. The Requestor agrees that the Requestor 's construction contract with its general contractor for the implementation of the License Activities and any replacement improvements or any material alterations or new construction within the License Area shall require the general contractor and all subcontractors to pay the then general prevailing rate of per diem wages, in the locality where said work is being performed, as ascertained by the California Department of Industrial Relations or such greater amount as otherwise agreed by the County, for each craft, classification or type of worker employed to perform the work.

f. Possessory Interest. In accordance with the requirements of California Revenue and Taxation Code Section 107.6, Requestor is hereby informed that this Agreement may create a possessory interest in the Requestor that may be subject to property taxation and Requestor hereby represents, warrants and agrees to pay any such legally mandated possessory interest tax when

due and payable at its sole liability, cost and expense.

g. Changes or Amendments To Agreement. This Agreement, together with all exhibits attached hereto and those documents incorporated by reference into this Agreement, constitutes the entire agreement between the Parties and supersedes any and all prior oral or written understandings. No amendment, addition to or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it, unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the Parties.

h. Successors and Assigns. This Agreement, and all the terms, covenants and conditions hereof, shall apply to and bind the successors and assigns of each party hereto.

i. No Third-Party Rights. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

j. Headings and Singular/Plural Use. All titles, subject headings, Article titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of this License.

k. Requestee Access. Requestee, its employees, agents or representatives shall have the right of reasonable access to the License Activities and License Area without charges or fees, and at normal construction hours during any construction period, for the purposes of ascertaining compliance with the terms of this Agreement. Requestee's access shall be reasonably exercised to minimize interference with Requestor's construction and/or operations. In any site visits, Requestee shall comply with reasonable safety rules of the contractor. The same requirements shall apply to construction of alterations. In addition, Requestee reserves the right, but not the obligation, to inspect, or cause to be inspected, the work of anyone performing, completing, installing or constructing in whole or in part the improvements or alterations.

l. Nondiscrimination. Requestor and the Requestor Affiliates shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's and SCVWD's policies on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Requestor and the Requestor Affiliates shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Requestor and the Requestor Affiliates shall not discriminate in the provision

of services provided in relation to this Agreement because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

m. Indemnification.

1. Requestor covenants, warrants, represents and agrees that:

   i. Requestor, on behalf of itself and the Requestor Affiliates, shall be responsible and liable for any and all Claims which arises out of, results from or is related to any access to, presence on, work by or activity involving the Requestor or Requestor Affiliates, excluding those Claims directly caused by the Requestee's gross negligence or willful misconduct or directly caused by the gross negligence or willful misconduct of any of the Requestee's Affiliates;

   ii. Excluding Claims directly caused by Requestee's gross negligence or willful misconduct, Requestor shall indemnify, defend and hold Requestee and the Requestee's Affiliates harmless from and against any and all liabilities, allegations, causes of action, assertions, claims and costs (including reasonable attorneys' fees, settlement costs and litigation costs) personal injury, property damage, death, natural resources damages, mitigation, clean up, remediation, other damages and other expenses (collectively, "Claims") occasioned by, relating to, or resulting from, wholly or in part, directly or indirectly, (1) any breach of this Agreement by Requestor, (2) the California Environmental Quality Act or National Environmental Policy Act; (3) the intellectual property rights or privacy rights of any third party or parties; and/or (4) the acts or omissions of Requestor or any of the Requestor Affiliates on or in the License Area;

   iii. Requestor assumes full responsibility and liability for the character, acts and conduct of all persons admitted to or entering Requestee's property by consent (implied or otherwise) of any of Requestor or any of the Requestor Affiliates;

   iv. No defense, indemnification or hold harmless obligations hereunder shall relieve any insurance carrier of its obligations under any insurance policies carried by any of the Requestor Affiliates or Requestor; and,

   v. These indemnification obligations shall survive the expiration, termination or cancellation of this Agreement or any individual Project Approval or License, in whole or in part. The Requestee shall be entitled to recover its reasonable attorney's fees and court costs incurred in enforcing these indemnification obligations.

2. If a Claim is filed, noticed or discovered, the Requestee will notify Requestor of the Claim and will cooperate fully in the defense. Notwithstanding the above, the Requestee has the right to participate in the defense of any Claim provided the Requestee bears its own costs

and attorney fees directly associated with such participation and defends the action in good faith.

n. Insurance. The Parties will individually insure their respective License Activities in connection with this Agreement by maintaining programs of self-insurance (to be provided by each respective Party upon request). In addition, all Requestor Affiliates who are third parties shall provide the insurance and indemnity as required by the Requestee, and proof of such insurance shall be included with each Requestor's submittal package seeking Project Approval.

o. Relationship of Requestee and Requestor. Nothing set forth in this Agreement shall be deemed or construed to render the Parties as contractors to each other, as joint venturers, partners, agents, a joint enterprise, employer- employee, or lender-borrower. Requestor and Requestor Affiliates shall have no authority to employ any person as employee or agent on behalf of Requestee for any purpose. Neither Requestor nor the Requestor Affiliates shall be deemed an employee, agent or representative of Requestee, nor shall any such person or entity represent himself, herself or itself to others as an employee, agent or representative of Requestee.

p. Good Faith & Fair Dealing. The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement: (i) wherever the Agreement requires the consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed; and (ii) wherever the Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

q. Entire Agreement; Governing Language. This Agreement, together with all exhibits attached hereto and those documents incorporated by reference into this Agreement, constitutes the entire Agreement between the Parties and supersedes any and all prior written or oral negotiations, representations, understandings or agreements.

r. Subcontractors. If any obligation is performed for or on behalf of Requestor through a contractor or subcontractor, Requestor will remain fully responsible and liable for the performance of all obligations under this Agreement and Requestor will be solely responsible and liable for all payments due to the Requestor Affiliates. No contract, subcontract or other agreement entered into by Requestor with any third party in connection with this Agreement, or the use of Requestee's property, will provide for any indemnity, guarantee or assumption of liability by, or other obligation of, Requestee with respect to such arrangement.

s. Signing Warranty. By signing below, signatory warrants and represents that he/she executed this License in his/her authorized capacity, that he/she has the authority to bind the entity listed to contractual obligations and that by his/her signature on this License, the entity on behalf of which he/she acted, executed this License.

t. Cumulative Remedies. The rights and remedies of the parties to this Agreement, whether pursuant to this Agreement or in accordance with law, shall be construed and held to be cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the

exercise of nor the waiver of any other available right or remedy.

u. Counterparts. This Agreement may be executed in several counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both Parties.

v. Construction. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

w. Non-Waiver of Rights. No delay or omission by either Party hereto to exercise any right occurring upon any noncompliance or default by the other Party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the covenants, conditions or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained. Waivers of either Party's rights hereunder must be in writing and shall not be implied from performance or usage of trade. The failure of a Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. The failure of a Party to insist upon the strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that the Party may have, and shall not be deemed a waiver of its right to require strict performance of all terms, and conditions thereafter, nor a waiver of any remedy for the subsequent breach of any of the terms, covenants, or conditions

x. Severability. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either SCVWD or COUNTY in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement in which case this Agreement shall become void and the license granted herein shall be void and terminated.

y. Governing Law; Exclusive Jurisdiction. This Agreement, and all the rights and duties of the Parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including mediation proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN

SANTA CLARA COUNTY, CALIFORNIA.

z. Conflict of Interest.

1. Requestor Affiliates shall comply with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement or any or all Project Approvals by the Requestee.

2. In accepting this Agreement, Requestor represents, warrants and covenants that it will not employ or contract with any consultant, contractor, person or entity having any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement.

aa. California Public Records Act. The County and the District are each a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If either Party's proprietary information is contained in documents submitted to the other Party, and the disclosing Party claims that such information falls within one or more CPRA exemptions, the disclosing Party must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the receiving Party will use reasonable efforts to provide notice to the disclosing Party prior to such disclosure. If the disclosing Party contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the receiving Party's deadline for responding to the CPRA request. If the disclosing Party fails to obtain such remedy within the receiving Party's deadline for responding to the CPRA request, the receiving Party may disclose the requested information, without liability, obligation or cost to the receiving Party.

bb. Delegation of Authority. County hereby delegates authority to the Director of the Parks and Recreation Department, or his designee, to take all actions required of the County under this License, subject to County Counsel's approval as to form and legality.

cc. Survival. Those Sections and provisions that by their nature should survive termination, cancellation or expiration of this Agreement, shall so survive, including but not limited to Sections 6, 7, 12, 13, 14 and 15, inclusive.

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////SIGNATURES FOLLOW ON NEXT PAGE////

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the last date signed by all parties ("Effective Date') as provided below.

COUNTY OF SANTA CLARA, a Political Subdivision of the State of California

By: _____
S. JOSEPH SIMITIAN, President
Board of Supervisors

Date: AUG 1 4 2018

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.
ATTEST:

_____
Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

By: _____
Shirley R. Edwards
Deputy County Counsel

SANTA CLARA VALLEY WATER DISTRICT

By: _____
NORMA CAMACHO
Chief Executive Officer

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Brian C. Hopper
Sr. Assistant District Counsel

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the last date signed by all parties ("Effective Date') as provided below.

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_____
Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

By: _____
Shirley A. Edwards
Deputy County Counsel

SANTA CLARA VALLEY WATER DISTRICT

By: _____
NORMA CAMACHO
Chief Executive Officer

Date: Aug. 14, 2018

APPROVED AS TO FORM AND LEGALITY:

By: _____
Brian C. Hopper
Sr. Assistant District Counsel

EXHIBIT A -- JOINT RESOLUTION (SHARED PRINCIPLES OF SCVWD AND COUNTY)

RESOLUTION NO. _____
[ORIGINAL SEPERATELY SIGNED]

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AND THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT APPROVING SHARED PRINCIPLES AS A FRAMEWORK FOR THE LAND USE RELATIONSHIP BETWEEN THE PARTIES

WHEREAS, the County of Santa Clara Board of Supervisors ("County") and the Board of Directors of the Santa Clara Valley Water District ("District") held a joint meeting on May 18, 2017 related to public recreation at District property, including reservoirs and other joint engagements between the parties; options to develop a master partnership agreement between the parties that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including trails development, natural resource management, and public recreation at District facilities to obtain direction regarding mutual commitments and processes to coordinate efforts directly for, or associated with, recreation, including planned land acquisition, construction of recreational improvements, pond/lake and stream reconfiguration, and trail development; and,

WHEREAS, based on direction from both Boards at the May 18, 2017 meeting, County and District staff have collaborated to develop certain shared principles (the "Shared Principles") as stated herein below:

1. **Common Goals and Service Populations.** The District and the County share common goals and service populations. A portion of our land holdings are inextricably linked, and the public does not recognize any demarcation in ownership, but rather values flood protection, safe clean water, environmental stewardship and the seamless access and recreational experience our joint system provides. Our agencies have worked together for the common good of the Santa Clara County community for over 60 years.

    a. The Santa Clara Valley Water District Act ("District Act"), along with the District's Board-approved Ends Policies, sets out District powers and goals which, in some instances, are aligned with the County's park purposes and goals, including the following:

        i. Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out purposes as defined in the District Act (Section 4c (7) of the District Act).

        ii. Preserve open space and support the County park system in a manner consistent with carrying out purposes as defined the District Act (Section 4c (8) of the District Act).

        iii. The District has the power to acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or

other works owned or controlled by the District (Section 5 (16) of the District Act).

b. The County's Charter provides powers to operate and fund Parks and Recreation functions. The County General Plan identifies numerous strategies, policies, and goals to support a regional system of parks and trails and to protect natural resources, including water quality, and biotic habitats. The general plan further identifies inter-jurisdictional coordination as a key strategy to achieving these goals.

   In support of County's General Plan, the Board-approved Strategic Plan establishes the Parks mission and vision:

   i. Provide, protect, and preserve regional parks lands for the enjoyment, education, and inspiration of this and future generations.
   ii. Create and manage a sustainable, vibrant system of regional parks and trails where exceptional visitor services enrich the human spirit and offer all people the opportunity to connect with the County's protected natural, cultural, historic and scenic resources, consistent with responsible resource stewardship.
   iii. The County General Plan also includes a policy and implementation goals supporting flood protection measures, including resource conservation, preservation of riparian vegetation and habitat, recreation, and scenic preservation of county streams and creeks.

2. **Public Access/Recreation Compatible with Watershed Protection.** Providing safe, reliable drinking water, providing for a safe and healthy community and environment through managing natural resources, and mitigating flood risk may be compatible with providing public access and recreational use of the shared system of land and facilities managed by the District and the County, subject to the California Environmental Quality Act ("CEQA") and approval from the various permitting agencies.

3. **Shared Natural Resources Stewardship Goals.** Both the County and the District have a shared responsibility for watershed stewardship relative to each agency's powers and purpose.

4. **Collaboration Leverages Our Strengths and Avoids Waste.** Collaboration on jointly funded District and County projects or endeavors, leveraging our individual strengths, and optimizing each agencies' resources, as appropriate, can maximize the public good and generate efficiencies to each agency. This collaborative approach should be consistently defined as a line staff responsibility and the leadership of each agency should seek to empower its staff to make decisions that promote our mutual goals. A periodic review of the working relationship between the agencies to ensure implementation of this collaborative culture would be beneficial;

WHEREAS, the purpose of these Shared Principles is to frame the District-County land use relationship for existing and future agreements and interactions relating to County parkland and District properties. These Shared Principles shall be re-evaluated every five years so that the District and County may determine whether to update or revise the Shared Principles which shall only be done by approval of both the County's Board of Supervisors and the District's Board of Directors; and

WHEREAS, County's Board of Supervisors and District's Board of Directors individually retain their full legislative discretion to take other actions with respect to this Resolution as each may deem appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, and the Board of Directors of the Santa Clara Valley Water District, that the Shared Principles are hereby adopted and approved.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____

S. JOSEPH SIMITIAN, President
Board of Supervisors

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President, Board of Supervisors.
ATTEST:

_____

MEGAN DOYLE, Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

_____

Shirley R. Edwards, Deputy County Counsel

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District, on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
RICHARD P. SANTOS,
Chair of the Board of Directors

ATTEST:

_____
Michele King,
Clerk of the Board of Directors

APPROVED AS TO FORM:

_____
Brian C. Hopper
Sr. Asst. District Counsel

EXHIBIT B
COUNTY FORM -- SCOPE OF WORK and CEQA COMPLIANCE

Instructions:

1. Santa Clara Valley Water District ("Requestor") should submit to County a cover letter or email request stating the name, location, and purpose of the project, and complete this form with the information requested below. The Requestor should include the description and maps as specified below and is not authorized to proceed until written approval is provided from Real Estate Services of the Parks and Recreation Department in the form of a "Notice To Proceed". (A Microsoft WORD version of this form will be emailed to the Requestor upon request.)

2. Requestor should review the written response to this application when received. It is possible that the County may not approve scope, or may conditionally reduce "submitted scope of work" to a more limited "approved scope of work."

3. Requestor is responsible for following all provisions of the Master License Agreement, to which this Exhibit C-1 application, if approved, will become a supplement.

4. If required, "Special Provisions," may be attached to prescribe project-specific conditions in addition to Exhibit C-1.

5. Upon completion of project, Requestor is required to submit a County-issued Project Completion Form which shall include:
   a. Copies of any raw data collected, or reports compiled for the project (examples: Lidar/Laser scanning data, Property/Project Boundary Survey, Biological Survey, Monitoring Systems); and,
   b. Geo-referenced CAD *dwg* files and ESRI-compatible files that can be inserted into the County's GIS system. The coordinate system should be CA State Plane Zone 3 NAD 83, units in US Survey feet.

APPLICANT SECTION (to be completed by Requestor)

PARK NAME/ LOCATION ("Property"):

_____

(to be completed by Applicant)

Requested Beginning Date _____

Requested Ending Date _____

Requested Daily Schedule _____

Requested Hours of Operation

_____

Applicant acknowledges that, if approved by the County ("Project Approval"), the License Activities shall be subject to and in compliance with all terms and conditions of the Master License Agreement.

Applicant confirms that any vehicles to be utilized under this Master License Agreement are equipped with spark arrestors as required by the ***Santa Clara County Parks and Recreation Department Roads and Airport Department Fire Prevention Operational Procedure*** manual as referenced in Section 9.

COUNTY SECTION

PROJECT NAME: _____
(to be issued by County)

MASTER LICENSE SUPPLEMENT NUMBER: _____
(to be issued by County)

BEGINNING DATE _____
(to be issued by County)

_____

ENDING DATE _____
(to be issued by County)

BEGINNING DATE _____
(to be issued by County)

ENDING DATE _____
(to be issued by County)

WEEKLY SCHEDULE (e.g. Monday – Friday, Monday – Saturday, or Other)

Hours of Operation Granted: _____

_____

Description of Project and All Activities:
(Provide a full, succinct explanation of all activities that will occur within park. Include all information specified below. Vague descriptions or incomplete applications will be returned to applicant and begin processing when resubmitted.)

1) A written request referencing the enumerated uses below, and completing the following items on this Exhibit C-1 (See below):

- Purpose
- Maps
- Boundaries and Project Area Size
- Access
- Contact Information (Designated Requestor staff project manager: This person will coordinate all license requirements with County Parks Real Estate staff.)
- CEQA (See page following)

2) A conceptual site map or plat which clearly identifies the following:
- Park name and location of Requestor use
- Specific points of ingress and egress to and from park
- Local context (geographic features and infrastructure: streets, trails, creeks, etc.)
- Assessor Parcel Map and Number (Clearly identify only the parcels to be utilized)
- Begin and end date of use
- Hours of use
- Staging Area, Parking Area, and General Description of Vehicles to be Utilized

Allowed Uses

Purposes characterized as temporary or minor in nature including but not limited to by way of example, the following "License Activities", on a case-by-case basis ("Project Approval" basis), subject to the requirements set out in Section 5 of the Master License Agreement):

- Ingress and egress across a Requestee's property for public purposes,
- Limited site assessment, surveying and monitoring activities, including but not limited to trail planning, evaluations and analysis, water quality monitoring, vegetation monitoring, and limited collection of samples of natural resources;
- Temporary staging of equipment and temporary parking of vehicles and equipment;
- Minor construction, maintenance or vegetation management activities, such as sign or wildlife camera installations, fencing, minor grading, or vegetation management to facilitate access;
- Stream gage installation, inspection, and maintenance;
- Exploratory soil borings.
- Removal of invasive species;

Purpose:

(Explain the purpose for access to parklands and clearly state how it will be in the public interest {as required by Government Code and County Ordinance}).

To be completed by Requestor Project Manager. Project Manager should reference the enumerated allowed uses above.

Maps:

Attach an accurately scaled map that provides contextual reference (where is this site in relation to surrounding roads and easily identifiable park features or landmarks. Include project boundaries and ingress/egress. If staging is required, clearly identify full extent of staging area). A GIS Map is required to assist processing timeline. A current Assessor's Map should also be provided.

Boundaries and Project Area Size:
Describe boundaries of project and include boundaries on map. State approximate size and basis for size determination.

Access (Ingress and Egress):
Describe points of access and exit
Contact Information (Project Manager):
Position Title:
Phone Number:
Email Address:
Emergency Contact:
CEQA
Complete the following information for CEQA certification or CEQA exemption.
Choose one of the three check boxes below:

I certify that this project is within the scope of the following CEQA document:

Signature of applicant: _____

Printed name of applicant: _____

Name of CEQA document: _____

Date document certified: _____

Certified by: _____

OR

I certify that this project is a qualified categorical exemption.

Name of Exemption: _____

CEQA Guideline Used: _____

Provide a statement explaining how applicant knows that endangered species will not be affected. If any protected species or sensitive habitat is impacted, no approval shall be granted unless and until compliance with all environmental laws pertaining to such species or habitat have first been met.
If any protected species or sensitive habitat is impacted, no approval shall be granted unless and until compliance with all environmental laws pertaining to such species or habitat have first been met.

_____

OR

I certify that this project is a qualified statutory exemption. (If statutorily exempt, provide name of exemption, guideline used, and statement – above.)

APNs
List all APN's and attach Assessor's Parcel Map.

EXHIBIT C
ENCROACHMENT PERMIT APPLICATON

Date: _____

Applicant: (Party to whom the permit, if granted, will be issued?)

Name:_____ Company Name: _____

Address: _____ City: _____ Zip: _____

Contact Phone No. 1): (___)_____ 2): (___)_____ Email:_____

Agent: (Specify "same" if Agent is the Applicant. All correspondence will be sent to Agent unless otherwise specified)

Name:_____ Company Name: _____

Address: _____ City: _____ Zip: _____

Contact Phone No. 1): (___) _____ 2): (___)_____ Email: _____

Project/Work Location Information:

Address:_____ City:_____ Nearest Cross Street: _____

APN: _____ Anticipated Start Date: _____ End Date: _____

District Facility (if known): _____

This request is for: (check all that apply)

- ☐ Soil Boring/ Well
- ☐
- ☐ Utility Installation
- ☐ Grading
- ☐ Other
- ☐
- ☐ Fence Installation/Repair
- ☐ Tree Removal/Trimming
- ☐ Outfall Construction/Repair
- ☐ Bridge Construction/Repair
- ☐ Access/Encroachment
- ☐ Erosion Repair
- ☐ Landscaping
- ☐ Trail

Description of Project or Activity: (add additional sheets as necessary)

_____

_____

_____

Are other County / City approvals or permits required? Yes ☐ No ☐
If Yes, identify agency, approval or permit required, and contact person.

_____

Complete Application Package: A complete encroachment permit application package comprises of the completion of this Encroachment Permit Application along with the submission of all the information, drawings, reports, and other documents required by the District (which includes the documents specified in the attached Encroachment Permit Application Requirements). As an Applicant, you may be requested to provide information to the District so that the District may make a reasonable determination as to whether there are any material impacts to hydraulics, hydrology, structural integrity, maintenance, and property rights of the District's right-of-way resulting from the Project. To the extent you seek a District encroachment permit on an area where the District only has an easement right, you must submit with this application the underlying fee owner's written permission authorizing you to carry out your project on the District's easement area.

Duly Authorized Agent: _____(initial if applicable) The Agent identified on this application is duly authorized to act on my behalf in all matters pertaining to the Water Resources Protection Ordinance encroachment permit process.

Applicant Signature:_____

Applicant Name: _____

Date: _____

Project Assessment
For an Encroachment Permit

The District, at the sole discretion may issue you an encroachment permit, subject to the terms and conditions of the Master License Agreement, if your project or activity meets the criteria defined in Santa Clara Valley Water District Water Resources Protection Ordinance. This ordinance requires that certain findings be made, based on substantial evidence provided in response to the following questions. To aid us in evaluating your project relative to these criteria, please respond, and explain as appropriate, to the following questions. District staff will review these responses and make independent findings based on the plans and other information provided for the project. Submit your responses with your encroachment permit application.

1. Does the proposed project or activity conform to the District Water Resources Protection Manual? Describe any variations or exceptions. A copy of the District Water Resources Protection Manual is available at the District offices or on-line at www.valleywater.org
   ☐ No ☐Yes

2. Will the proposed project or activity impede, restrict, retard or change the direction of the flow of water in a stream?
   ☐ No ☐Yes

3. Will the proposed project or activity catch or collect debris carried by such water?
   ☐ No ☐Yes

4. Is the proposed project or activity located where the natural flow of storm and flood waters will damage or carry any structure or part thereof downstream?

☐ No ☐Yes

5. Will the proposed project or activity damage, weaken, erode or cause siltation or reduce the effectiveness of the banks to withhold storm and flood waters?
☐ No ☐Yes

6. Will the proposed project be constructed to resist erosion and siltation?
☐ No ☐Yes

7. How will the proposed project or activity be constructed or managed to resist the entry of pollutants and contaminants into the stream?

8. Will the proposed project or activity interfere with maintenance of the facility?
☐ No ☐Yes

9. Will the proposed project or activity interfere with any existing structures placed or erected for flood protection, water conservation or distribution?
☐ No ☐Yes

In addition to the above information, the following questions will be addressed by District staff and considered in making a determination for the issuance of the requested encroachment permit. Please provide any information relative to these questions that you believe will be helpful to staff in making findings.

10. Does the proposed project or activity meet the purpose and intent of the District Act? (How does the proposed project benefit stream stewardship, flood protection or water supply?)

11. Is the issuance of the Encroachment Permit in the public interest? (Why should this activity of modification be allowed on District right of way?)

12. Will the issuance of the Encroachment Permit result in conflict with or detriment to an existing or planned District facility?

Encroachment Permit Application Requirements

The following information and documents must be submitted to process your application for an encroachment permit on Santa Clara Valley Water District ("District") property pursuant to the District's Water Resources Protection Ordinance and Water Resources Protection Manual ("Water Resources Protection Ordinance") and the Master License Agreement between the County of Santa Clara and the District.

Questions about the District's application of its Water Resources Protection Ordinance may be referred to the District's Community Projects Review Unit staff at any time. However, you as an applicant ("Applicant") may seek from the District a formal interpretation of any provision of the Water Resources Protection Ordinance. Such a formal request must be made in writing to the District's Chief Executive Officer.

- **Pre-Application** A pre-application submittal to assess the feasibility of a proposal will be accepted; however, the scope of the District's response may be limited.

- **Application Package** A complete application package requires this Encroachment Permit Application and two (2) sets of plans. (If submitted electronically, only one copy is needed) The project package may be submitted by fax, mail, e-mail or hand delivery to our office located at the letterhead address. **All hard copy mail delivery other than through the U.S. Postal Service must be addressed to Santa Clara Valley Water District, 5905 Winfield Avenue, San Jose CA 95123.**

  Engineering plans and calculations, stamped and signed by a California registered engineer or architect are required for engineered or complex work. The submittal of progress prints is encouraged, however a District

encroachment permit will not be issued until stamped and signed construction drawings are received and all other requirements are satisfied. District as-built or record drawings are available for some facilities. Where available, a copy of such drawings must be obtained from the District and be clearly marked to show the proposed work to be done by Applicant under the District encroachment permit sought by Applicant. Applicant must include such marked up drawings in the application package submitted to the District.

- **Project Assessment** Provide all the information required on the Project Assessment Sheet.

- **CEQA** Issuance of a District encroachment permit is subject to the requirements of the California Environmental Quality Act ("CEQA"). If your project is approved (or will be approved) by another public entity as the lead agency, that public entity's environmental assessment must include the activities Applicant seeks to carry out under a District encroachment permit. A copy of the document, prepared by the lead agency for the project, must be provided. The District, as a Responsible Agency, will not issue a District encroachment permit until it completes the appropriate CEQA document for the proposed project. If the environmental documentation was not completed by another public agency or does not sufficiently cover the use of District right-of-way, an additional environmental assessment may be needed.

- **National Pollutant Discharge Elimination System ("NPDES")** NPDES permit requirements must be met for discharges entering the District's right-of-way. Project proponents must follow their local jurisdiction's requirements. Project plans should show how water quality pollution prevention measures have been included in the project.

- **Other Permits** You must provide all other permits required to carry out the activities on the District's property, including without limitation, any permits required by the State Department of Fish and Game, U.S. Army Corps of Engineers, and the Regional Water Quality Control Board. If no other permits are required, Applicant must provide the District with written certification that no other permits are lawfully required.

- **Federal Agency Review** Additional review time is required for any Applicant proposed project or activity on District property located in the areas listed below to enable the District to refer such proposed project or activity to the federal agencies that sponsored or constructed improvements located at those locations.

  Locations Containing Improvements Sponsored or Constructed by Federal Agencies:
  - Guadalupe River from Alviso to Highway 280
  - Coyote Creek from San Francisco Bay to Montague Expressway
  - Uvas Creek from south of Thomas Rd to Santa Teresa Blvd.
  - Llagas Creek, Morey and North Morey Channels, West Branch and West Little Llagas Creek, Lions Creek,
  - Santa Clara Conduit and Pacheco Conduit

- **Other Property Owner Permission** Property lines must be accurately shown on your drawings. Permission must be obtained from all owners or entities that have property rights in the work areas, including all routes of access to and from your work site.

- **Technical Information** All information of a technical or engineering nature that may be necessary or required for the proper accomplishment of the proposed project including soil investigations, slope and/or stream stability analyses must be provided to the District. This information will be prepared and/or obtained by the Applicant at his/her own expense.

- **Alteration of Watercourses** Applicants proposing alterations to, or bank repairs in, the watercourses must show that such work will not adversely affect the hydraulic capacity and bank stability of the watercourse and may be required to provide engineering calculations. A hydraulic analysis is required for bridge or culvert crossings and for channel modifications. The analysis must be provided using HEC-RAS or HECII. The use of this software may be waived for certain circumstances as solely determined by the District.

- **Photo Documentation** If granted a District encroachment permit, you must photograph the District right-of-way covered by such encroachment permit in a manner that fully documents such right-of-way prior to the commencement of any work. Photos should, at a minimum, show existing vegetation, fencing, and the ground surface condition in the area of the proposed work.

- **Imported Fill** If Applicant proposes bringing fill or imported materials onto the District right-of-way, Applicant must ensure such fill and/or imported materials do not contain any hazardous materials and must certify this as such by completing an Import Borrow Certificate (WF75117).

- **Dewatering** All dewatering or water diversion plans will be submitted for review and shall be approved by the agencies referred to above.

- **Biological Assessment** A biological assessment and survey is required for work within sensitive habitat areas. Such biological assessments must be provided to the District.

- **Insurance** County is self-insured. A certificate of insurance and additional insured endorsement acceptable to the District must be provided prior to issuance of a District encroachment permit. The District, its directors, officers, agents, employees, and volunteers must be named as additional insureds in the general, automobile liability, and worker's compensation insurance policies. The District and the other foregoing individuals must remain as additional insureds until the later of: (i) the expiration for the District encroachment permit; or (ii) the completion of all of Applicant's activities on the District right-of-way. Specific requirements are shown on the Insurance Requirements information sheet.

- **As Builts** As-built drawings will be required following completion of work for projects that modify District facilities, as solely determined by the District. If requested by the District, Applicant will provide the District with electronic files of those drawings.

- **Review Time** Review times will vary depending on the complexity of the project and available District staff resources. Fence cost sharing, adopt-a creek, and access permits will typically be processed within 2 weeks. Please allow at least 4 weeks for review of all other permit requests. If the application is incomplete, District staff, as it deems necessary, will notify the Applicant to obtain information the District believes is necessary to process your application.

Plans must include the following:

- A site map of the parcel on which the proposed work will be located,
- The location of the proposed work or structures in reference to property lines,
- Complete and detailed dimensions of the proposed work, structures or facilities,
- A legend, north arrow, bar scale and drawing scale,
- Indicate, label and dimension existing and proposed District rights of way.
- Show existing and proposed utilities.
- Show existing topography and features adjacent to and within the area of proposed work. A separate permit for access to District property to perform survey work may be needed.
- Show plan, profile and cross sections as appropriate for the project and how the proposed work relates to District right of way.
- The benchmark used for the project. If an assumed benchmark is used, provide a tie and conversion to NGVD or NAVD.

General notes on plan set must include:

- Contractor must obtain a District encroachment permit prior to start of construction within District right of way and maintain a copy of the permit on the project site at all times
- Notify the District's inspector at least 2 days prior to beginning any work within the District's right of way
- Any damage to District's structures, equipment, materials, vegetation, and or property shall be replaced and or repaired in kind to the satisfaction of the District.

- Underground Service Alert must be notified a minimum of 2 days prior to scheduled start of construction at
  1-800-227-2600.
- A listing of all relevant parties associated with the project, including names and contact information.

Santa Clara Valley Water District

EXHIBIT D-- SCVWD ENCROACHMENT PERMIT

PERMIT

5750 ALMADEN EXPRESSWAY, SAN JOSE, CA 95118-3686 (408) 265-2600

Permit No.:

Permittee: County of Santa Clara Parks and Recreation Department
Attention: Ms. Carolyn Tucker
298 Garden Hill Drive
Los Gatos, CA 95030

Telephone: (408) 355-2220

File:

Re:

Purpose of Permit:

- ☐ Encroachment
- ☐ Construction
- ☒ Temporary

Expiration Date: _____

PERMITTEE MUST NOTIFY AND FURNISH SCHEDULE OF WORK TO: District , at least 2 District business days before starting any work under this permit. **Failure to notify is cause for revocation of permit and removal of work.** This permit is subject to the General Conditions listed on Pages 2 and 3 hereof (and if specified, the Special Conditions listed on Page 4). Violation of any condition specified in this permit shall be cause for immediate revocation of this permit. This permit is not effective unless signed by both the Permit Authority and Permittee.

Permittee

I, the Permittee (or agent of the Permittee), read and understand the permit conditions (i.e. General Conditions, and if specified, the Special Conditions) contained in this permit and by signing below, I agree to abide by each and every term and condition in this permit. If signing as a duly authorized agent of the Permittee, I hereby represent and warrant that I have the authority to bind Permittee to all the terms and conditions specified in this permit.

County of Santa Clara Parks and Recreation Department
Name of Permittee

Signature Date

Print Name/Title of Signatory

SCVWD

Effective Date

Engineering Unit Manager (Permit Authority)
Community Projects Review Unit

cc:

GENERAL CONDITIONS

ACCEPTANCE OF CONDITIONS. Permittee's activity or work under this permit constitutes Permittee's acceptance of the general and special conditions contained in this permit.

PERMIT RIGHT. District grants to Permittee a revocable, and non-exclusive license to enter upon the fee property or right-of-way owned by the District that is described in **Exhibit A** attached hereto ("Permit Area"), for the limited purpose and subject to the terms, conditions and restrictions set forth below.

DISTRICT TITLE. The District has title to the Permit Area based upon recorded fee, right-of-way deeds and/or an implied dedication. This permit is effective only as to the rights of the District in the Permit Area, and Permittee shall obtain any further permission that is necessary to use the Permit Area. This permit does not address any rights in the Permit Area belonging to any other entity or person and is subject to all prior unexpired permits, agreements, easements, privileges, or other rights, whether recorded or unrecorded, in the Permit Area. Permittee shall make arrangements with holders of such prior rights. Permittee places its encroachment at its own risk.

KEEP PERMIT ON THE WORK SITE. Permittee must maintain a copy of this permit and approved plans on the Permit Area at all times and it must be shown to any representative of the District or law enforcement officer upon demand.

CONSTRUCTION OF IMPROVEMENTS. All improvements shall conform to recognized standards of construction and constructed in accordance with the plans accepted by the District. All the work shall be done subject to the satisfaction of the District's Inspector. No change of the project, as outlined in the plans, drawings, or other documentation submitted with Permittee's encroachment permit application to the District, will be allowed except upon the District's written permission.

MAINTENANCE. Permittee shall exercise reasonable care to maintain properly any encroachment or improvement placed by it or its agent in the Permit Area and to exercise reasonable care in inspecting for and immediately repairing and making good any damage to any portion of the Permit Area as a result of activities performed under this permit, including any and all damage to the Permit Area which would not have occurred had such work not been done or such encroachment or improvement not been placed therein. The District shall

not be held responsible for any damage to any encroachment or improvement installed by Permittee under this permit, whether said damage is caused by the District or its agent or otherwise.

CLEAN UP PERMIT AREA. Upon completion of any activity under this permit or the revocation of this permit, the Permit Area shall be placed in substantially the same condition as it was immediately prior to the work. If Permittee fails to restore the Permit Area to such condition, the District may perform such work or have work performed, and Permittee agrees to reimburse the District for all costs of the work so performed.

PERMIT SUBORDINATE TO DISTRICT'S USE OF PERMIT AREA. Whenever the District desires to construct, reconstruct, or do maintenance work on the Permit Area, or use the Permit Area for any purpose, the Permittee shall, upon the District's request, immediately move, remove, relocate or otherwise change, any improvements, encroachments, work or installation on the Permit Area, all at the sole expenses of the Permittee.

TERM. Unless a permit expiration date is expressly specified in this permit, the term of this permit is indefinite and may be revoked by the District or abandoned by Permittee at any time. If the District elects to revoke this permit, it will provide Permittee with written notice specifying the date this permit is no longer in effect.

PERMITS AND LICENSES FROM OTHER PUBLIC AGENCIES. This permit does not relieve Permittee of the responsibility from obtaining all applicable permits, licenses and/or other permissions that must be obtained from other public agencies and/or commissions in order for Permittee to carry its activities within or use the Permit Area.

COMPLIANCE WITH LAWS. Permittee shall, at its expense, conduct and cause to be conducted all activities on the Permit Area in a safe and reasonable manner and in compliance with all laws, statutes, ordinances, rules, regulations, policies, orders, and edicts (collectively, "Laws") of any governmental or other regulatory entity, including, without limitation: (i) all applicable water quality standards adopted by the District, Regional Water Quality Control Board, State Water Resources Control Board, or other jurisdictional or properly empowered regulatory agency; (ii) all applicable labor laws; and (iii) all health and safety laws (including trench excavation and obtaining as legally required a "Permit to Excavate" issued by the Division of Occupational Safety and Health as required by the California Labor Code). Permittee's failure to adhere to this paragraph shall be a material breach of this permit.

INDEMNITY. Permittee and its successors and assigns shall indemnify, defend, and hold harmless, the District, its directors, officers, agents, employees and contractors, and each of them, from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind arising in any manner out of or relating to any use or activity under this permit, including, but not limited to, the use, construction encroachment or maintenances done by Permittee or its agents, employees or contractors on or near the Permit Area.

WAIVER OF CLAIMS. Permittee waives its right to assert any claim or action against the District related to the condition of the Permit Area or its use by Permittee.

GENERAL CONDITIONS - Continued

NO HAZARDOUS SUBSTANCES. Permittee shall not use, store, transport, or place any hazardous substances (including hazardous waste and hazardous materials) on the Permit Area or adjacent to Permit Area. If any spills or discharge of hazardous substances are used or produced during the permitted activity, then Permittee must: (i) notify the District and the proper authorities; (ii) immediately investigate, remove, and monitor the hazardous substances to the satisfaction of the District and any regulatory agency; and (iii) bear any and all

costs associated with the remedial activities. The District has the absolute right to immediately suspend any operation that does not adhere to these requirements, or is found to be in violation of any Local, State, or Federal Environmental Regulations, until the problem is adequately or completely resolved.

INSURANCE. Permittee is self-insured.
IMPORTED MATERIALS. If Permittee seeks to place or store on the Permit Area any soils that did not originate from such Permit Area, then Permittee must submit to the District for its evaluation a fully completed "Import Material Certification Form" requesting the District's permission.

CHANGED CONDITIONS. If conditions change or new facts are discovered concerning the effects of the activities and uses authorized under this permit, or for other good cause, the District may modify this permit in order to protect life and property.

REPAIR DAMAGE TO PERMIT AREA. Any damage caused to the Permit Area, including (without limitation) damage to structures, vegetation, stream bank, fencing, maintenance road surfacing, and pipelines due to the use or activities carried out under this permit shall be repaired at the cost of Permittee and to the satisfaction of the District. Should Permittee neglect to make repairs promptly, District may make repairs or have repairs made, and Permittee agrees to reimburse District for all costs of such repairs. District may require a security deposit in advance from Permittee to secure the performance of this paragraph. Unexpended portions of any deposit shall be refunded to Permittee within 30 business days of the expiration of this permit. The posting of such a security deposit shall not relieve the Permittee from any liability under this permit which exceeds the value of the deposit required.

NO REAL PROPERTY INTEREST. Nothing contained in this permit shall be construed as a relinquishment of any rights held by the District. It is expressly understood that this permit does not in any way whatsoever grant or convey any easement, fee or other interest in the Permit Area to Permittee.

PERMIT TRANSFERABILITY. This permit may be transferred or assigned by Permittee to any party or parties for any one or all of the swimming events, provided such party or parties agree in writing to assume full and complete responsibility and liability for compliance with all terms and conditions contained herein **and** Permittee obtain insurance (including general liability insurance) with a reasonable policy limit as determined by the District, naming the assignee as the insured and the District (including its directors, officers, agents, employees and contractors) as additional insured to cover the assignee's activities and/or the encroachments placed in the Permit Area. The assignee's failure to obtain such insurance is a material breach of this permit

Exhibit A to SCVWD Encroachment Permit

PERMIT AREA – to be inserted.

EXHIBIT E
PROJECT COMPLETION SUBMITTAL FORM

Project Completion For Projects

This form to be completed by SCVWD at end of individual project.

MASTER LICENSE SUPPLEMENT NUMBER _____ (SCVWD to enter supplement number that was issued by County when individual project was approved; see Exhibit D, "Requestee Section")

Contact Information (Project Manager):

Name: _____

Position Title: _____

Phone Number: _____

Email Address: _____

Date Project Completed: _____

Titles of any and all raw data collection and reports compiled on the property for the project:_____
_____ **Please attach all data collected and reports compiled.**

Titles of any and all geo-referenced data files for the project:
_____
_____
Please email all geo-referenced data files created for the project.

MASTER PARTNERSHIP AGREEMENT
FOR RECREATIONAL USE OF
CERTAIN DISTRICT LANDS, RESERVOIRS AND RECHARGE PONDS

This master partnership agreement ("**Agreement**") is made and entered into effective September 17, 2018 ("**Effective Date**"), by and between the Santa Clara Valley Water District, a special district operating under the laws of the state of California ("**DISTRICT**") and the County of Santa Clara, a political subdivision of the state of California ("**COUNTY**"). DISTRICT and COUNTY are referred to in this Agreement individually as a "**Party**" and together as the "**Parties**."

Approved: 08/14/2018

RECITALS

WHEREAS, both Parties desire that this Agreement provide opportunities for recreational use of property owned by the DISTRICT at the "**District Facilities**" (e.g., land, reservoirs and recharge ponds) described in **Appendix "A"** and as shown on the "**Property Maps**" provided in **Appendix "B"**, both of which, by this reference, are incorporated into and made a part of this Agreement (collectively, the "**District Property**");

WHEREAS, the DISTRICT is vested with the authority to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County, with the authority to acquire, construct, maintain, operate and install recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the DISTRICT, and can take action to support the County park system in a manner consistent with this authority;

WHEREAS, the COUNTY is vested with the authority to construct, manage, maintain, operate, and improve park and recreational facilities and experiences in Santa Clara County;

WHEREAS, DISTRICT use of the District Property is the primary use and any recreational use of the District Property shall be secondary to this primary purpose, in compliance with all terms and conditions of this Agreement;

WHEREAS, both Parties have mutually agreed upon the various permitted uses of the District Property, which uses are set out in Appendix A as the "Permitted Recreational Uses"; Permitted Recreational Uses do not include use or access to those portions of the District Property dedicated to District use or operation of the District Facilities, including but not limited to District pump stations, canals, water lines, conduit, towers, buildings, structures, dams and spillways, with the exception of the trails, other County-installed recreational structures and authorized swimming and boating on said District Facilities;

WHEREAS, over the last forty years, the COUNTY has made, and continues to make, substantial capital investments in and to the District Property in order to improve the quality of the recreational experience for visitors, all of which the Parties acknowledge have added value to

the District Property and have improved the reputation of both the DISTRICT and the COUNTY as agencies devoted to serving the interests of the public;

WHEREAS, the Parties acknowledge that, in addition to the cost of installing the County Improvements, the COUNTY has also expended funds for the management, maintenance and operation of the District Property in order to provide Permitted Recreational Uses;

WHEREAS, DISTRICT and COUNTY have entered into or may enter into other agreements to address protocols, management, inspections and testing related to control of quagga and zebra Mussels and other invasive species;

WHEREAS, over the past 40 years, the DISTRICT and the COUNTY have mutually supported joint use of the District Property to provide recreational opportunities consistent with DISTRICT policies and statutes and, in support of this complementary effort, the Parties have recently developed shared "**Shared Principles**" through a joint Resolution, which are attached to and incorporated into this Agreement by this reference as **Appendix "C"** and which shall be null and void and of no effect for purposes of this Agreement (without any need to amend this Agreement) upon the rescission of the joint Resolution;

WHEREAS, DISTRICT and COUNTY agree to proactively coordinate their respective planning efforts related to the District Property, as needed from time to time; and,

WHEREAS, the Parties find it to be in the public interest to provide for joint use of the District Property by means of an Agreement under the following terms and conditions.

NOW THEREFORE, in consideration of the mutual promises contained here, and valuable consideration the receipt of which is hereby acknowledged, the Parties agree to the foregoing and as follows:

TERMS AND CONDITIONS

1. Recitals and Appendices.

All Recitals set out herein above are incorporated into and made a part of this Agreement by this reference. The following Appendices are incorporated into and made a part of this Agreement by this reference:

Appendix "A" – District Facilities and Permitted Recreational Uses
Appendix "B" – Property Maps
Appendix "C" – Joint Resolution (Shared Principles) (in effect until rescinded by either Party per its terms).

2. Term and Termination of Agreement.

(a) The "**Term**" of this Agreement shall be a period of twenty (20) years, commencing from the Agreement Effective Date. Any holding over by County after the expiration of this Agreement shall be allowed on a month-to-month basis subject to the same terms and conditions contained in this Agreement, in which event either Party may terminate the Agreement for convenience by providing the other Party thirty (30) days advance written notice.

(b) **Termination Without Cause**. This Agreement may be terminated by either Party for any or no reason by providing twelve (12) months advance written notice to the other Party.

(c) **Modifications to the Permitted Recreational Uses or District Property**. DISTRICT's Chief Executive Officer ("DISTRICT CEO") and COUNTY's Director of the Parks and Recreation Department ("PARKS DIRECTOR"), or their respective designees, may, from time to time, negotiate updates to the Permitted Recreational Uses set out in Appendix A and such updates shall be implemented administratively, except where COUNTY policies or applicable laws require additional approvals or review (e.g., the California Environmental Quality Act, if applicable). The DISTRICT and COUNTY, from time to time, may also negotiate updates to the list of District Property set out in Appendices A and B, which may result in the addition or deletion of District Property from Appendices A and B, and the provisions of section 2(f) below shall apply to any County Improvements on District Property deleted from the Agreement. The addition of District Property to Appendix A shall require advance approval from the Santa Clara County Board of Supervisors and the District's Board of Directors and formal written amendment of this Agreement.

(d) **DISTRICT Suspension of Permitted Recreational Uses**. If DISTRICT reasonably determines that it is necessary and prudent to immediately restrict or modify any specific Permitted Recreational Use in designated portions of District Property, then such reasonable restriction or modified recreational use shall be implemented immediately after DISTRICT first provides COUNTY with at least thirty (30) days advance written notice of its intent to restrict or modify such Permitted Recreational Use. To the extent any such modifications or restrictions may interfere in the COUNTY's ability to provide a quality recreational experience at the designated District Property, then COUNTY, at COUNTY's sole election, after providing DISTRICT at least sixty (60) days advance written notice, may decide to temporarily terminate all or some existing Permitted Recreational Uses at such District Property until all prior uses are restored by the DISTRICT, during which time DISTRICT shall be solely liable and responsible for full management, operation, maintenance and care of said District Property at its sole cost and expense, and COUNTY shall be under no obligation to

provide any recreational use on said site(s). Such restrictions or modifications may remain in place until Appendix A is modified by the Parties or DISTRICT removes such restriction or modification. Either Party may exercise its rights under this Section 2(d) administratively, without review or approval by the DISTRICT's Board of Directors or the COUNTY's Board of Supervisors.

(e) **Amendment by Either Party.** The Parties acknowledge that there may be circumstances under which DISTRICT or COUNTY determines that its best interests require an amendment to the Agreement. In the event that a Party seeks such an amendment, it shall provide written notice to the other Party, whereupon COUNTY and DISTRICT shall begin the meet and confer within the sixty (60) days following the date of such written notice to discuss and negotiate the terms and conditions of the proposed amendment.

(f) Both COUNTY and DISTRICT acknowledge that upon termination or expiration of this Agreement COUNTY shall have the option but not the obligation to remove any County Improvements within a reasonable time period, at the sole discretion of COUNTY; upon such termination or expiration, DISTRICT shall not require COUNTY removal of any County Improvements.

3. Purpose and Limitations of Use.

(a) During the Term, DISTRICT hereby grants a full license and permission to COUNTY to provide for and regulate public access to the District Property for the Permitted Recreational Uses and all County activities directly related to the Permitted Recreational Uses (except where otherwise prohibited by applicable law or elsewhere in this Agreement), including but not limited to construction, improvement, installation, management, planning, design, operation, maintenance and repair of recreational amenities, structures and facilities deemed necessary by the COUNTY to fulfill this purpose, provided, however, (i) any and all capital improvements shall be to support the Permitted Recreational Uses and related experiences and (ii) any new construction of "Facilities or Structures" ("Facilities and Structures" exclude minor public works and other minor installations such as kiosks, and culverts and includes fences, signage, and any other improvements that may impact DISTRICT operations and access at the District Property) to the District Property shall first be approved by the DISTRICT by written approval, and such approval shall not be unreasonably withheld, conditioned or denied. COUNTY shall comply with conditions in said written approval. If DISTRICT fails to respond within forty-five (45) days of County's request with a decision to approve or deny, then the Parties shall engage in the dispute resolution process set out in Section 13 of this Agreement.

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4. County Rights and Responsibilities.

(a) COUNTY shall manage and administer the Permitted Recreational Uses on the District Property during the Term. Subject to the conditions and restrictions contained in this Agreement, COUNTY has full control and authority for public use of the Permitted Recreational Uses on the District Property in accordance with this Agreement, and COUNTY shall restrict, control, regulate and/or supervise the public recreational use thereof. COUNTY may, at its discretion, consistent with the terms and conditions of this Agreement, and applicable local, state and federal laws, regulations or requirements, take measures as COUNTY deems appropriate, to address public health, safety or convenience through vegetation management, vector control or by other appropriate lawful means. The COUNTY is solely liable and responsible for the maintenance, repair and improvements to all trails, roads, boat ramps, buildings, facilities and structures (including vertical and horizontal infrastructure) installed by the COUNTY on the District Property (collectively, the "**County Improvements**"), including responsibility for ensuring the health and safety of said facilities and structures for their intended use.

(b) COUNTY will have the right to make all County Improvements, including construction, replacement or reconstruction of County Improvements, on the District Property necessary, or convenient to the enjoyment of the District Property for the Permitted Recreational Uses authorized under this Agreement, subject to the requirements of this Agreement. For all new construction of Facilities or Structures on the District Property, the COUNTY shall provide design development plans for such projects, including those proposed by COUNTY licensees, concessionaires, lessees, or assignees, and such plans shall be provided to the DISTRICT by letter requesting approval of the intended improvements, which approval shall not be unreasonably withheld or denied. It is fully understood and agreed that DISTRICT's basis of approval or disapproval of any County Improvements is its responsibility to ensure the same will not unreasonably interfere with the use of the District Property for any existing or planned DISTRICT use. COUNTY and DISTRICT shall both observe all statutes, laws, ordinances and regulations applicable to the construction of their respective improvements under this Agreement.

(c) To the extent consistent with this Agreement, COUNTY shall have all responsibility for powers related to operation, maintenance and management of the District Property in relation to the Permitted Recreational Uses, including, but not limited to, the powers to:

(1) Determine staffing for recreational maintenance and operations;

(2) Determine regular hours of operation of the Premises and time for public access;

(3) Modify days and/or hours of operation. COUNTY agrees to notify DISTRICT of any changes to its posted regular hours of operation and time of day for public access at any of the sites in the Premises, and any changes to the dates for which the sites are open for specific activities in the Premises. In the event of a date reschedule for the seasonal closure of boating access, COUNTY shall notify DISTRICT of posting or announcing such change. COUNTY's notifications to DISTRICT shall be as early as possible, but no later than 72 hours after COUNTY's posting or announcing such change. COUNTY's notifications to DISTRICT shall be by email or in writing to DISTRICT's Chief Executive Officer or the Chief Executive Officer's designee.

(d) Special Events: COUNTY may, at its election, approve and/or conduct a limited number of park user special events by issuance of a COUNTY permit each year at the District Property. COUNTY-permitted special events ("**Special Events**"), include, but are not limited to, swimming, fish stocking or other events not normally allowed, as specified in Appendix A, and will require a COUNTY-issued Special Event permit. COUNTY will take full District Property responsibility for COUNTY park permittees and their authorized-participants (each and collectively the "**Park Permittees**" or "**Park Permittee**") in all Special Events and may, at its election, delegate management, operations or administration responsibility for such Special Events to Third Parties (as defined in Section 4(g) below) provided such Third Parties carry appropriate insurance and assume all liability and risk by written agreement entered into between the COUNTY and said Third Party(ies). COUNTY may delegate any obligation to secure any necessary permits or other governmental approvals to the Park Permittees. COUNTY will require the Park Permittee operating the Special Event to include the DISTRICT as an additional insured in any insurance policies required by the COUNTY and said policies shall cover general liability and workers compensation, which coverage shall be equal to that provided to and required by the COUNTY.

(e) COUNTY shall not conduct or permit fish stocking on District Property other than as provided for under this Section 4(e) and other requirements in Section 4(k), which may include DISTRICT inspection, testing and prior approval of fish used for stocking. COUNTY shall provide written notice to DISTRICT prior to each such fish stocking event taking place. Such written notice shall be provided within one week of the date such stocking is scheduled or one week prior to the stocking event, whichever is greater. COUNTY must receive written approval from DISTRICT before proceeding with the fish stocking event; such approval shall not be unreasonably withheld. The DISTRICT may elect to conduct its own testing prior to approval of a COUNTY proposed fish stocking, and COUNTY shall not bear any expenses for such testing.

(f) Where COUNTY has jurisdiction or authority under applicable law, COUNTY shall prohibit third party operation or use of any drone or remote-controlled aircraft over the District Property. Aircraft landing and take-off from the water at the District Property is prohibited; however, the Parties recognize that the State of California may have rights to airlift water from the District Property for firefighting purposes and COUNTY shall have no liability or responsibility for such State actions or inactions.

(g) Concessions, Contracts, Licenses, Leases and Assignments. COUNTY may, at its election, approve concessions, licenses, contract, assignments, or leases for activities, improvements or services at or on the District Property for the purposes of supporting the Permitted Recreational Uses. By way of example, but not limitation, such purposes may include food services, and the provision of recreational activities. In addition, grazing is also allowed so long as the COUNTY complies with the DISTRICT's written Best Management Practices of the Sanitary Survey, such as 100-foot setbacks from all waterways and other grazing requirements of the DISTRICT, including advanced written approval. COUNTY will require the concessionaire, contractor, permittee, licensee, lessee or assignee ("**Third Parties**" or "**Third Party**") to include the DISTRICT as an additional insured where Third Party insurance policies are required by the COUNTY and these policies shall cover general liability and workers compensation, which coverage shall be equal to that provided to and required by the COUNTY.

(h) COUNTY is responsible for maintenance and repair of all County Improvements on the District Property, except where such maintenance or repair is necessitated due to damage caused by negligent or intentional acts of the DISTRICT in which case DISTRICT shall pay for such maintenance and repair. Maintenance and repair shall be at the level comparable to COUNTY's maintenance of COUNTY improvements installed on COUNTY-owned parks of a similar size, public use and with similar recreational improvements. Where there is no COUNTY-owned park with similar recreational improvements, maintenance and repair shall be at a reasonable level.

(1) If DISTRICT serves written notice to COUNTY that additional maintenance or improvements to the County Improvements, such as public signage, are required as a result of applicable local, state or federal water quality laws or regulations, COUNTY shall have no less than thirty (30) days to respond to the notice in writing concerning its time estimate for corrective action or to propose another alternative, provided that COUNTY shall respond as appropriate in a shorter period of time as directed by a state or federal regulatory agency (other than the DISTRICT). The DISTRICT is not obligated to accept any alternative proposed by the COUNTY. The Parties shall meet and confer if necessary concerning any issues of dispute. If other improvements or maintenance are requested by the DISTRICT that are not to the County

Improvements on the District Property, then the Parties shall meet and confer to mutually develop a plan for completing and paying for such maintenance or improvements.

(i) COUNTY shall provide DISTRICT, by October 31st of each year, a report containing a numerical estimate of visitor attendance (where feasible) to the District Property for the prior calendar year, broken down by each District Facility. In addition, for each District Facility where boating is allowed, the annual report shall contain (where feasible) the estimated numbers of COUNTY or concessionaire boats rented by visitors and the estimated number of launches of visitor-owned boats (broken down by power boats versus others. The annual report shall also contain the dates and brief descriptions of Special Events, and an estimate of the number of visitors attending each of those Special Events. The report shall also provide the number of citations issued and the numbers (and types) of other enforcement actions taken by COUNTY (if known). Each year in November (or in another date mutually determined by the Parties), COUNTY will participate in a meeting scheduled by DISTRICT upon receiving COUNTY's annual report to jointly consider the success of the prior year's Permitted Recreational Uses and discuss any ways in which the Parties can collaborate to enhance the public's recreational experience or modify the Permitted Recreational Uses to protect District Property or water supply in future years.

(j) The COUNTY shall be responsible for all regulatory requirements associated with the Permitted Recreational Uses and County Improvements, including complying with all regulatory requirements, which may include but are not limited to compliance with the California Environmental Quality Act, the California Endangered Species Act, the federal Endangered Species Act, the California Department of Fish & Wildlife Code, the Basin Plan and the Regional Water Quality Control Board and California Water Code requirements pertaining to such uses, including any applicable new requirements during the term of this Agreement.

(k) COUNTY shall observe all statutes, laws, ordinances and regulations applicable to its responsibility assumed under this Agreement. To the extent any DISTRICT policy adopted after the effective date of this Agreement directly conflicts with COUNTY's express rights under this Agreement, the provisions of this Agreement shall prevail, unless such DISTRICT policies are less stringent than the requirements of this Agreement. DISTRICT shall observe all statutes, laws, ordinances and regulations applicable to its responsibility under this Agreement. In the event that COUNTY is in violation of any provision of this Agreement, DISTRICT shall provide COUNTY written notice of the specific violation and specify a ninety-day period, or such time as is reasonably necessary (which may be less or more than 90 days depending on the necessity of cure), and COUNTY shall, within the specified period, cure the violation to DISTRICT's satisfaction. COUNTY's failure to cure within the specified time period shall constitute grounds to terminate the Agreement. In the event that DISTRICT is in

violation of any provision of this Agreement, COUNTY shall provide DISTRICT written notice of the specific violation and specify a ninety-day period, or such time as is reasonably necessary (which may be less or more than 90 days depending on the necessity of cure), and DISTRICT shall, within the specified period, cure the violation to COUNTY's satisfaction. DISTRICT's failure to cure within the specified time period shall constitute grounds to terminate the Agreement.

(l) COUNTY shall not restrict DISTRICT access to the District Property at any time, subject to the terms and conditions of this Agreement. DISTRICT shall not restrict COUNTY access to the District Property at any time, subject to the terms and conditions of this Agreement. DISTRICT may reasonably use COUNTY roads, boat ramps and trails on the District Property at any time to exercise any powers or authorities as the owner of the District Property or as authorized by the District Act provided such uses do not unreasonably interfere or impact the Permitted Recreational Uses and shall comply with COUNTY park policies and requirements with respect to such use except to the extent such policies and requirements conflict with the DISTRICT's rights under this Agreement in which case the terms of this Agreement shall prevail, unless such DISTRICT policies are less stringent than the requirements of this Agreement.

(m) The Parties shall coordinate with each other to prepare for emergency responses on the District Property (e.g. Emergency Action Operations Manual utilized by Park Operations staff), including communications during an emergency, provided, however, each Party shall be solely responsible for carrying out and managing its internal emergency response protocols.

(n) So long as COUNTY requires Park Permittees to first obtain a COUNTY-issued Special Event Permit before using District Property for a Special Event, then COUNTY shall not be obligated and shall not be required to obtain a permit or approval from the DISTRICT for such use, provided such COUNTY-issued permit requires the permittee to comply with all applicable DISTRICT standards pertaining to such use.

(o) Under this Agreement, COUNTY is under no obligation to undertake actions to address conditions resulting from low water levels including but not limited to the removal of dead fish, removal of decaying vegetation, or use of algaecide to address odors COUNTY shall lock the gates at the launch ramps where water levels are below the launch ramp.

5. District Rights and Responsibilities.

(a) DISTRICT's right to use the District Property for DISTRICT purposes in accordance with applicable laws, including but not limited to the District Act, is, at all times, superior to the COUNTY's subordinate use of the District Property for the Permitted

Recreational Uses, and it is expressly understood that the terms and conditions of this Agreement will not in any way interfere with the absolute, free and unrestricted right of DISTRICT to operate and maintain any dam, reservoir, recharge facility, or any appurtenant works thereto, or to repair or reconstruct any of its works, or to raise or lower the height of the water of any reservoir or recharge facility or otherwise use the District Property as it deems necessary.

(1) Notwithstanding the provisions of Section 5(a) above, the DISTRICT shall not restrict, alter, modify or deny COUNTY's Permitted Recreational Uses nor deprive the COUNTY of its quiet use or enjoyment of the District Property or the County Improvements without first providing the COUNTY reasonable advance written notice and an opportunity to meet and confer in accordance with the provisions of this Agreement. If COUNTY is denied the quiet use or enjoyment of the District Property, the County Improvements or the Permitted Recreational Uses are unreasonably interfered with, restricted or denied at any time, the COUNTY shall have the right, but not the obligation, to either terminate this Agreement or discontinue permanently any or all Permitted Recreational Uses of any portion of the District Property.

(b) DISTRICT shall have the right to limit or restrict the type, intensity, or control location of Permitted Recreational Uses on the District Property, as reasonably necessary to meet DISTRICT operational requirements, water quality requirements, or other DISTRICT purposes and/or use, subject to compliance with the terms and conditions of this Agreement, including but not limited to Section 5(a)(1) herein above.

(c) DISTRICT will be responsible and liable for all improvements and facilities on District Property not part of the County Improvements including, but not limited to the dams, reservoirs and appurtenant facilities, which may provide, as a primary function, for the storage, regulation and management of water.

(d) DISTRICT shall provide COUNTY annually ("**annual written notice**"), but not later than May 1st, the currently scheduled operational levels for each reservoir on the District Property for the remainder of the calendar year. This shall not limit DISTRICT's discretion in its operations and COUNTY understands and agrees that DISTRICT operational levels for the reservoirs and actual maintenance, repair, construction, or improvements of the reservoirs may vary. DISTRICT shall make good faith efforts to provide COUNTY with reasonable advance written notice of material changes.

(e) DISTRICT will engage COUNTY early in conceptual and subsequent planning and design for capital projects and/or other physical improvements that could result in future construction or material changes on or around the District Property.

(1) DISTRICT will provide COUNTY a minimum of sixty (60) days advance written notice of any construction relating to any proposed DISTRICT physical improvements or capital projects to be performed on the District Property, including the DISTRICT's schedule for starting and completing the work and the potential for impact to COUNTY's use of the District Property.

(2) DISTRICT shall use good faith efforts and commercially acceptable practices to minimize DISTRICT's project impact on COUNTY's use of and improvements on the District Property. DISTRICT shall provide COUNTY reasonable advance written notice (at least sixty (60) days) of any planned significant changes to the District Facilities or other DISTRICT structures in or that may materially affect the District Property or any of the Permitted Recreational Uses, including but not limited to construction.

(3) For reasonably unforeseeable events, DISTRICT shall provide advance written notice to COUNTY at the earliest possible date, but at a minimum at least forty-eight (48) hours advance notice.

(f) For emergencies reasonable notice shall be provided and, notifications by DISTRICT may be by email to the PARKS DIRECTOR or designee so long as it is followed by a telephone call to the PARKS DIRECTOR or designee, with a detailed message and call-back number.

(g) For any DISTRICT capital project on the District Property where the DISTRICT removes any of the COUNTY Improvements, then, after complying with CEQA (where applicable), the DISTRICT will replace COUNTY Improvements in kind, as a capital project component, to a location and in a condition reasonably acceptable to both Parties using qualified California licensed engineers and contractors within a reasonable period of time (not to exceed five (5) years, or such other period of time mutually agreed between the Parties) or the parties may mutually agree to other contributions in lieu of in-kind County Improvements. Pending litigation or regulatory approval shall constitute grounds to extend time for the replacement.

(h) DISTRICT shall provide COUNTY by March 31st of each year (or by such other date as mutually determined by the Parties) an annual schedule for both future planning projects (as of 2018, these future planning projects are identified in DISTRICT annual CIP document) and major construction work that may affect or impact any of the County Improvements, any of the Permitted Recreational Uses or the physical condition of any of the District Facilities or Premises, such as the planned seismic upgrade to Anderson Dam. Projects on the annual schedule for construction shall satisfy the 60-day notice requirement in Section 5(e) herein above. DISTRICT retains full discretion to make changes to this schedule for construction work and shall provide COUNTY with at least sixty (60) days advance written notice of such changes.

Before any work begins DISTRICT and COUNTY shall collaborate and attempt to develop protocols and funding sources for mitigating the impacts to the County Improvements or the Permitted Recreational Uses. Following such efforts, DISTRICT shall not be prohibited from moving forward in the absence of an agreement regarding impact mitigation.

(i) When the DISTRICT intends to conduct repairs to any of the District Facilities or other structures in or near the District Property that may impact County Improvements, DISTRICT shall make every reasonable effort not to damage or affect the use of County Improvements. DISTRICT shall notify COUNTY pursuant to Section 5(e) herein above of its intent to make such repairs. DISTRICT and COUNTY shall collaborate and develop protocols and funding sources for mitigating the impacts to the County Improvements before any work begins, except during emergencies in which case such collaboration may continue after work has begun.

(j) DISTRICT shall meet and confer with COUNTY within thirty (30) days of COUNTY's request for a meeting to address any issues raised by COUNTY related to implementation of COUNTY's responsibilities or obligations described in Section 4 or this Section 5. If COUNTY indicates an urgent meeting is required for this purpose, DISTRICT shall meet and confer with COUNTY as soon as possible within the thirty (30) day period. COUNTY shall meet and confer with DISTRICT within thirty (30) days of DISTRICT's request for a meeting to address any issues raised by DISTRICT related to implementation of DISTRICT's responsibilities or obligations described in Section 4 or this Section 5. If DISTRICT indicates an urgent meeting is required for this purpose, COUNTY shall meet and confer with DISTRICT as soon as possible within the thirty (30) day period.

6. Working Groups and Joint Responsibilities

For purposes of this Agreement, COUNTY and DISTRICT shall form a joint working group comprised of staff from both Parties to address operational, administrative and processing issues that may arise related to implementing this Agreement. The working group shall meet at least monthly (or, alternatively, more or less frequently as determined in writing between the Parties). On an annual basis, the working group shall meet to evaluate the effectiveness of efforts to and success levels reached in implementing this Agreement. The working group shall use these meetings to also develop written processes and protocols for implementation of this Agreement, which must be approved by both the PARKS DIRECTOR the DISTRICT CEO. The working group meetings are not intended to, and do not, replace the dispute resolution process set in section 13 herein below.

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7 As-is Condition of District Property.

(a) **District Property**. It is expressly understood by COUNTY that DISTRICT has no obligation to modify or change its use of the District Property or modify the District Property itself to accommodate COUNTY's use of the District Property. It is COUNTY's sole obligation to ensure the District Property is of adequate condition to accommodate COUNTY's and public's use of the District Property for the Permitted Recreational Uses allowed under this Agreement and consistent with the terms and conditions of this Agreement.

(b) **Water Levels.**

(1) It is expressly understood by COUNTY that the level of water stored in the District Facilities on the District Property will fluctuate from day-to-day and month-to-month and such fluctuations may sometimes be of such magnitude to limit or preclude COUNTY's use of the effected District Property for the Permitted Recreational Uses. DISTRICT and COUNTY shall establish a mutually agreeable communications plan to ensure DISTRICT informs COUNTY in advance of any necessary releases/fluctuations in water levels.

(2) It is understood that nothing herein contained shall be constructed as conferring a right upon COUNTY or the public, or any member thereof, to have, or a duty upon DISTRICT to provide, water in said reservoir at any time and shall not affect the rights and obligations pursuant to section2(d) herein.

(3) Under this Agreement, neither DISTRICT nor COUNTY have any obligation to undertake actions to address water quality conditions including but not limited to the removal of dead fish, removal of decaying vegetation, or use of algaecide.

(c) **Water Quality.**

(1) DISTRICT shall have the right to limit or restrict the type, intensity, or location of the Permitted Recreational Use as are reasonably necessary to meet any California State Water Resources Control Board, Regional Water Quality Control Board, Department of Public Health, or DISTRICT policies, requirements or regulations regarding the quality, degradation or impairment (chemical, physical and/or biological) of DISTRICT water supply sources or to address the potential effect of water quality on DISTRICT water supply infrastructure.. This right to limit or restrict the location of the Permitted Recreational Use as reasonably necessary shall be exercised when the DISTRICT determines that there is or threatens to be a significant degradation of water quality or degradation of DISTRICT water supply infrastructure associated with or impacting the Permitted Recreational Use.

(2) Prior to issuing any new limitations or restrictions, DISTRICT shall first convey immediately to COUNTY advance written notice of at least sixty (60) days prior to effecting such limitations or restrictions or a shorter time if reasonably required by an authority other than the DISTRICT or if a more urgent need for the change is identified by the DISTRICT.

(3) For the purposes of this Agreement, mussel controls shall include water borne organisms such as zebra and quagga mussels and algal toxins and or nonnative species. The COUNTY shall comply with the DISTRICT'S mussel prevention program and the Bay Area Consortium for zebra and quagga mussels coordinated prevention plan where boating and fish stocking are allowed per Appendix A. The parties will meet to discuss any proposed changes to these standards. COUNTY may elect to prohibit fish stocking or boating in certain reservoirs, in which case the COUNTY will have no obligation to comply with standards set out in this subsection (4). If the COUNTY so elects, then the COUNTY will provide DISTRICT with at least (30) thirty days written notice.

8. Fees and Costs.

(a) **Fees**. Fees received by COUNTY from the Permitted Recreational Uses and related uses shall inure to COUNTY and may be used to cover the costs of future improvements, maintenance, and operation (including administration and overhead costs attributable to COUNTY's use or occupation of the District Property).

(b) **Costs**.

(1) The Parties agree that the costs for repairs, maintenance or improvements shall be paid by COUNTY if related to the County Improvements and by DISTRICT if related to any of DISTRICT's facilities, structures, dams or other infrastructure. The Parties agree to share the cost of items where the Parties agree that such items significantly relate to both the COUNTY's Permitted Recreational Uses and to the DISTRICT's uses of the Premises. However, the DISTRICT's periodic or incidental use of gates, parking lots, roads or walkways to access or facilitate access to DISTRICT facilities shall not trigger this cost-sharing obligation except where DISTRICT or any of its officers, agents, directors, employees or independent contractors is/are negligent or has/have engaged in willful misconduct. The aforementioned costs shall not include DISTRICT or COUNTY employee salaries or benefits. If a dispute results for the allocation or division of an expense, then the Parties shall resolve the matter in accordance with Section 13 (Dispute Resolution).

(2) Where mutually agreed upon in writing between the Parties, the DISTRICT may fund in whole or in part repairs, maintenance or improvements to the District Property for recreational uses. Without mutual agreement, COUNTY acknowledges that

DISTRICT is under no obligation to fund such items. Entry into such an agreement shall be at the sole and exclusive discretion of each Party, and failure to reach a mutual agreement for such funding shall not be subject to the dispute resolution process (Section 13) in this Agreement.

(c) COUNTY's accounts of fees and costs described in this Section 8 are subject to reasonable audit by DISTRICT, within the normal Department hours of operation and all such costs of any audits shall be the sole responsibility and liability of the DISTRICT and not the COUNTY.

(d) COUNTY park visitor fees shall not apply to DISTRICT, its staff, contractors or agents conducting District business to reasonably access or use any portion of the District Property, excluding the County buildings or facilities.

9. Non-recreational Licenses, Assignments, Leases and Concessions.

Any third party uses, licenses, assignments, leases or concession agreements involving a non-park purpose on the District Property shall be subject to the advance approval of both COUNTY and DISTRICT, which approval shall not be unreasonably delayed or denied. Such third party uses shall not unreasonably interfere with COUNTY's and DISTRICT's use of the District Property.

10. Restrictions on the Use of Regulated Materials on the District Property.

(a) Regulated materials shall be defined for purposes of this Agreement as any material which is defined as a "**hazardous material, hazardous waste, hazardous substance, designated waste or special waste**" in accordance with applicable local, state and federal ordinances, statues and regulations.

(b) COUNTY has provided an inventory of regulated materials and quantities which are stored or used in the operations of the County Improvements or Permitted Recreational Uses on the Premises. DISTRICT acknowledges receipt of the inventory statement and quantities. Parties acknowledge that any one or more of the materials contained on the list may be used on, in or upon the Premises relative to the Permitted Recreational Uses or County Improvements.

(c) COUNTY shall provide DISTRICT copies of any amendments to modifications or supplemental information concerning the inventory as it is prepared by the COUNTY.

(d) In the event of a discharge or release of a hazardous substance or waste from, or resultant of, the COUNTY's operations, whether with or without the explicit or implicit knowledge of DISTRICT, then COUNTY is responsible for:

(1) Notification of all authorities in accordance with all federal, state and local regulations.

(2) Immediate notification (where feasible) to DISTRICT's Environmental Compliance Division, followed by written notification within 24 hours of discovery of the release.

(3) The investigation, including contaminant characterization, removal, monitoring, disposal, and regulatory clearance for remediation of the hazardous substance or waste, to the reasonable satisfaction of the District and any regulatory agency with jurisdiction over the release.

(4) Any and all costs, including DISTRICT costs, associated with all corrective actions.

11. Mutual Cooperation.

(a) **Projects/Opportunities with Mutual Benefit to Parties**. With respect to the Permitted Recreational Uses, the Parties shall look for opportunities to partner on projects of mutual interest and create plans for public information and education as part of the implementation of the project(s), including such things as working together to achieve a competitive edge on grant applications, creating informational brochures and public relations, all of which benefit the people of Santa Clara County.

(b) **Signage**. The Parties shall cooperate to create and install signage which benefits the programs of each Party, such as warnings, entrance signage, interpretive signs, and joint uses when applicable. The DISTRICT CEO and COUNTY's Director of the PARKS DIRECTOR or their designees shall meet and confer on a periodic basis to plan and install appropriate signage which serves the program needs of both Parties.

(c) **Public Relations**. The Parties recognize the unique nature of the resources and recreational uses covered by this Agreement and of the beneficial effects to both Parties of providing these resources to the public. The Parties resolve to utilize their respective offices to mutually support the efforts of each other to deliver such services to the public. The Parties further agree to cooperate in order to resolve disputes and assist each other in responding to public inquiries arising from the activities of the other Party.

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12. Indemnifications.

(a) Indemnification by County.

Notwithstanding any other provision of this Agreement, COUNTY agrees to indemnify, defend and hold harmless the DISTRICT, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, levies, assessments, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the: (i) Permitted Recreational Uses of the District Property, (ii) the condition of the County Improvements on the District Property, (iii) COUNTY's licensees', assignees', lessees', or concessionaires' use of the District Property or (iv) the negligence or willful misconduct of the COUNTY'S officers, agents, employees, or independent contractors. COUNTY shall have no duty to indemnify for that portion of comparative liability resulting from the negligence or willful misconduct of an officer, agent, or employee of the DISTRICT but shall retain the duty to defend DISTRICT in such case. This Agreement to defend, indemnify, and hold harmless the DISTRICT will operate irrespective of the basis of the claim, liability, loss, damage, or injury and irrespective of whether the act, omission, or activity is a condition of the District Property or any other cause of any kind or nature.

(b) Indemnification by District.

Notwithstanding any other provision of this Agreement, DISTRICT agrees to indemnify, defend and hold harmless the COUNTY, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, levies, assessments, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to (i) the DISTRICT Facilities, dams, fences, structures, improvements or infrastructure that is or are not authorized for use for the Permitted Recreational Uses, (ii) DISTRICT's licensees', assignees', lessees', or concessionaires' use of the District Property or (iii) the negligence or willful misconduct of the DISTRICT's officers, agents, employees, or independent contractors. DISTRICT shall have no duty to indemnify for that portion of comparative liability resulting from the negligence or willful misconduct of an officer, agent, or employee of the COUNTY but shall retain the duty to

defend COUNTY in such case. This Agreement to defend, indemnify, and hold harmless will operate irrespective of the basis of the claim, liability, loss, damage, or injury, and irrespective of whether the act, omission, or activity is a condition of the District Property or any other cause of any kind or nature.

13. Dispute Resolution.

(a) The Parties acknowledge that issues may arise that require resolution between the Parties. The Parties agree to meet and confer to resolve such issues. COUNTY hereby appoints the PARKS DIRECTOR, or designee, and DISTRICT appoints the DISTRICT CEO, or designee, as each of their respective representatives for dispute resolution. Either Party may notify the other Party upon a 48-hour telephone notice or three (3) day written notice whenever a Party desires to meet and confer and the other Party shall attend at a mutually agreed upon date, time and location. The Parties agree to utilize this procedure prior to instituting any legal action which pertains to this Agreement. Except as specifically provided herein, nothing contained herein shall diminish any right or remedy of either Party at law.

(b) **Arbitration.** The Parties may, but are not obligated, to mutually agree that a dispute shall be submitted to arbitration in San Jose, California (or other venue agreed to by the Parties) conducted by a retired judge of the Superior Court of California to be agreed upon by the Parties. In the absence of an agreement governing the arbitration process, the arbitration shall be by and according to the Rules of the American Arbitration Association but shall include a Statement of Decision and shall be according to California law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The cost of the arbitrator initially shall be borne equally by the Parties, but the prevailing Party in the proceeding shall be entitled to recover its contribution for the reasonable cost of the arbitrator from the non-prevailing Party.

14. Miscellaneous.

(a) **Binding Effect**. The covenants and agreements contained in this Agreement shall bind the respective successors, assigns, heirs and legal representatives of the Parties hereto.

(b) **Entire Agreement**. This Agreement and any exhibits, appendices or addenda attached hereto set forth all covenants, agreements, conditions and understandings between COUNTY and DISTRICT concerning the specific subject matter contained in this Agreement specifically relating to the District Property and the Permitted Recreational Uses, except where a prior written agreement approved and executed by both Parties expressly applies. This Agreement supersedes and replaces the Master Reservoir Lease, as amended.

(c) **Modifications.** Except for administrative amendments to Appendices A, B and C as provided for in Sections 2(c) and 4(k), the provisions of this Agreement may be modified, waived or added to only by a written amendment to this Agreement approved by both the DISTRICT's Board of Directors and the COUNTY's Board of Supervisors.

(d) **Waiver**. The waiver by either Party of a violation or breach of any provision of this Agreement by the other Party shall not constitute a waiver of any subsequent violation or breach.

(e) **No Assignment**. Neither Party shall assign its interest (in whole or in part) in or to this Agreement without the prior written consent of the other Party.

15. Notices.

Communications relating to this Agreement shall be in writing and shall be delivered personally, sent by United States mail, first class postage prepaid, or by private messenger or courier service, to the addresses set forth below:

If DISTRICT: Chief Executive Officer
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3686

If COUNTY: Director
Santa Clara County
Parks and Recreation Department
298 Garden Hill Drive
Los Gatos, California 95030

WITH COPY TO: County Counsel
Office of County Counsel
70 West Hedding, East Wing, 9th Floor
San Jose, California 95110

//

//

////SIGNATURES FOLLOW ON NEXT PAGE////

//

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall take effect on the Effective Date as stated above.

SANTA CLARA VALLEY WATER DISTRICT:

By: _____

Richard P. Santos, Chair of the Board of the Directors

Date: _____

ATTEST:

_____

Michele King, Clerk of the Board of Directors

Date: _____

COUNTY OF SANTA CLARA:

By: _____

S. JOSEPH SIMITIAN, of President of the Board of Supervisors

Date: AUG 1 4 2018

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.
ATTEST:

_____

Megan Doyle, Clerk of the Board of Supervisors

Date: AUG 1 4 2018

Approved as to form:

_____

Brian Hopper,
Sr. Asst. District Counsel

Approved as to form and legality:

_____

Shirley R. Edwards
Deputy County Counsel

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall take effect on the Effective Date as stated above.

SANTA CLARA VALLEY WATER DISTRICT:

By: _____
Richard P. Santos, Chair of the Board of the Directors

Date: August 14, 2018

ATTEST:

_____
Michele King, Clerk of the Board of Directors

Date: August 14, 2018

Approved as to form:

_____
Brian Hopper,
Sr. Asst. District Counsel

COUNTY OF SANTA CLARA:

By: _____
S. JOSEPH SIMITIAN, of President of the Board of Supervisors

Date: _____

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.
ATTEST:

_____
Megan Doyle, Clerk of the Board of Supervisors

Date: _____

Approved as to form and legality:

_____
Shirley R. Edwards
Deputy County Counsel

EXHIBIT A

DISTRICT FACILITIES
(Identifying Permitted Recreational Uses)

District Facility (includes water bodies and adjacent District land)	Permitted Recreational Uses*					
	(1) Picnicking, hiking, and other related uses	(2) Boating	(3) Fishing	(4) Swimming	(5) Fish Stocking	(6) Additional permitted uses
Almaden Reservoir	√		√			
Calero Reservoir	√	√ (motorized and non-motorized)	√			
Anderson Reservoir	√	√ (motorized and non-motorized)	√			
Stevens Creek Reservoir	√	√ (non-motorized)	√	√ (special events)		
Uvas Reservoir	√		√	√ (special events)		
Chesbro Reservoir	√		√	√ (special events)		
Camden Percolation Ponds	√		√		√ (pond #1 and #2--Special Events only)	√ (Pond #1—sail craft and Pond #2—remote control model boats)
Coyote Reservoir	√	√ (motorized and non-motorized)	√			√ (camping)
Lexington Reservoir	√	√ (non-motorized)	√			
Guadalupe Reservoir	√		√			

District Facility (includes water bodies and adjacent District land)	Permitted Recreational Uses*					
	(1) Picnicking, hiking, and other related uses	(2) Boating	(3) Fishing	(4) Swimming	(5) Fish Stocking	(6) Additional permitted uses
Vasona Reservoir	√	√ (non-motorized resident boats only)	√			√ (surface water diversion for landscaping)
Coyote Percolation Ponds	√	√ (motorized by Ski club)	√			

*Permitted Recreational Uses are only allowed where there is a checkmark (√). Other than power boating as provided herein, Permitted Recreational Uses shall be low impact on the environment or passive in nature. The following further clarifies the Permitted Recreational Uses for each numbered column above:

(1) Other permitted uses within existing developed areas include low impact activities such as orienteering, geocaching, bird watching, Frisbee, disc, and ball use.

Hiking, dogs on leash, jogging, biking and equestrian use including organized events shall be allowed on the District Property consistent with County Ordinances pertaining to such uses or on trails designated for these uses by appropriate signage and on access roads.

Picnicking shall be allowed only in areas designated by COUNTY and as approved by District and controlled through appropriate signage.

Nonnative vegetation may be removed, subject to regulatory agency approval, as desired to accommodate a permitted recreational use.

(2) All boating is subject to mussel inspection. Motorized boating is limited to select reservoirs. Motorized boating on all reservoirs is permitted by County Parks for safety and security purposes.

(i) A Vessel that is a "non-motorized boat" includes:

(1) boats propelled by paddles or oars (and usually without a motor), such as canoes, kayaks, inflatable boats and rafts, rowing boats (including row boats, shells, sculls, dories, and drift boats), and other types of manually propelled boats;

(2) small sailboats, 8 feet in length or shorter (used without operating a motor); and

(3) sailboards, paddleboards and kiteboards.

(ii) Motorized boating on Lexington is permitted by the Los Gatos Rowing Club for training and safety purposes.

(iii) Boating at Vasona is limited to non-motorized resident boats housed at Vasona managed by County Parks concession. Non-resident boats may be allowed only if mussel inspection protocol is implemented.

(iv) Motorized boating at Coyote Percolation Pond is permitted pursuant to County issued special permit to ski club.

(3) Specific site locations for fishing are subject to limitations set forth in the State Dept of Fish and Wildlife Code. County shall provide public notice that use of live bait is prohibited at all facilities. District and County will collaborate to provide signage prohibiting the release of non-native species and pets into the water.

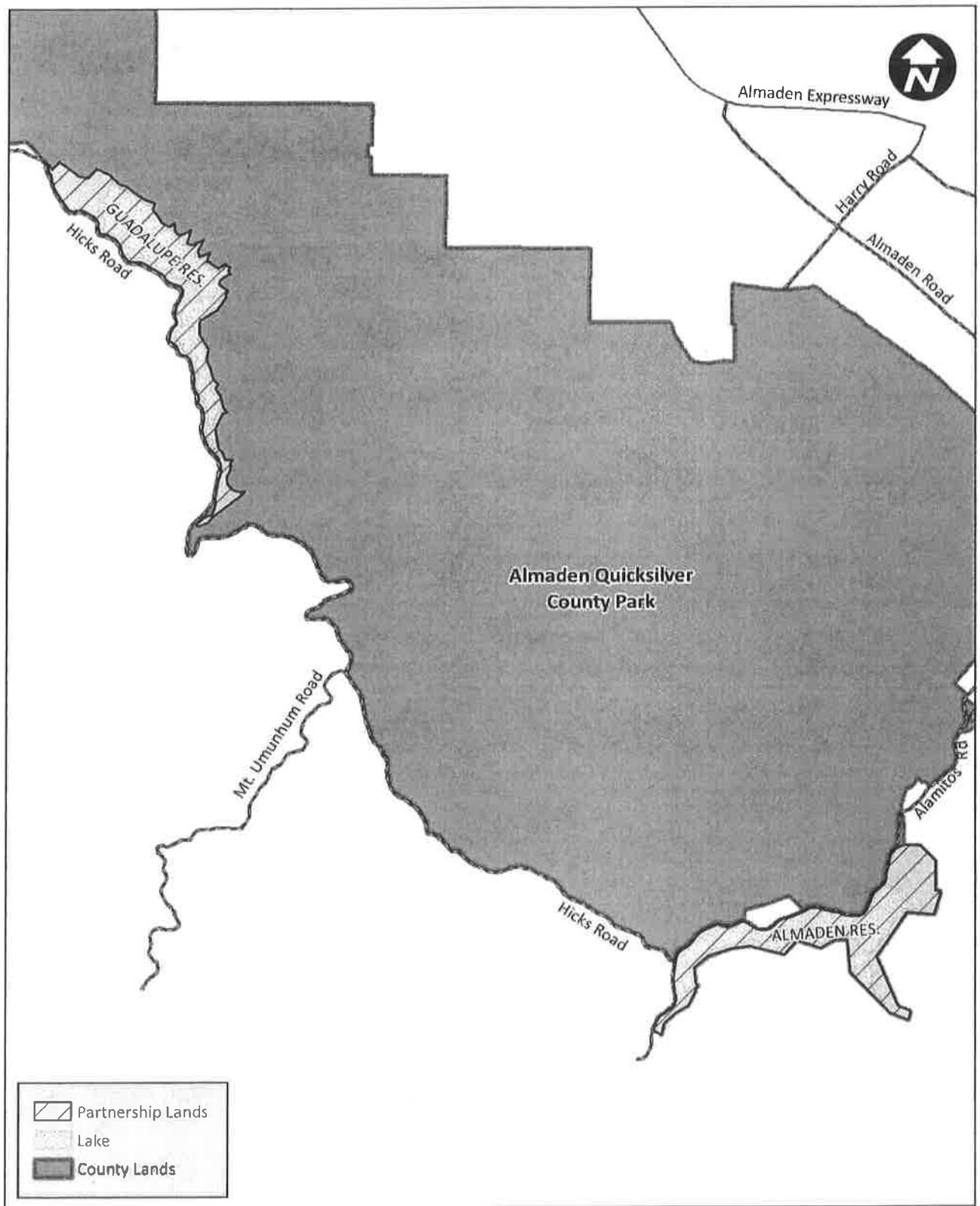
(4) Swimming is prohibited in reservoirs, except for those marked where swimming is limited to Special Events pursuant to Section 4 (d) of the Agreement, where events are appropriately supervised by life guards, are scheduled to not conflict with District activities, and water levels are appropriate for the use. Motorized boats may be used for safety purposes during special events subject to mussel inspection. A maximum of three swimming events are permitted per year per identified facility, but this number may be increased pursuant to the provisions of Section 2(c) of the Master Partnership Agreement.

(5) Fish stocking is subject to invasive species mussel testing and inspection protocol pursuant to Section 7(c)(3) of the Master Partnership Agreement. Fish stocking in Camden Ponds 1 and 2 may receive fish only from CDFW hatcheries in Region 3 (by example, Silverado and Warm Springs) or as may otherwise be directed or authorized by District in writing prior to the fish stocking. Fish stocking in Camden Ponds is limited to once per year.

(6) Sail Craft and Remote Control Model Boats are subject to invasive species mussel testing and inspection protocol.

EXHIBIT B

DISTRICT PROPERTY MAPS



SANTA CLARA COUNTY PARKS

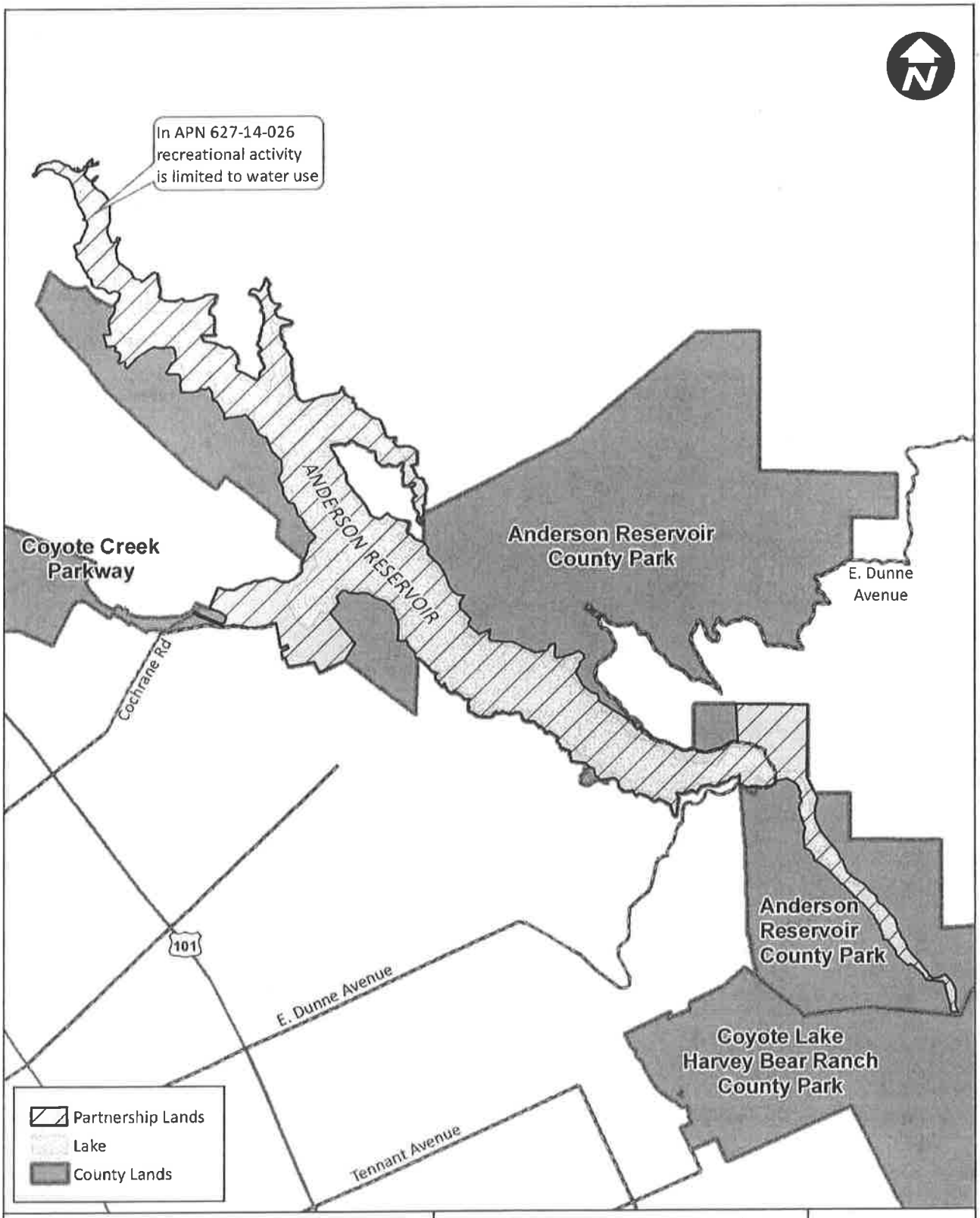
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

SCVWD Partnership Agreement Lands - Almaden and Guadalupe Reservoirs at Almaden Quicksilver County Park

July 16, 2018

Created By: JF

Scale: 0 250 500 1,000 Feet



SANTA CLARA COUNTY PARKS

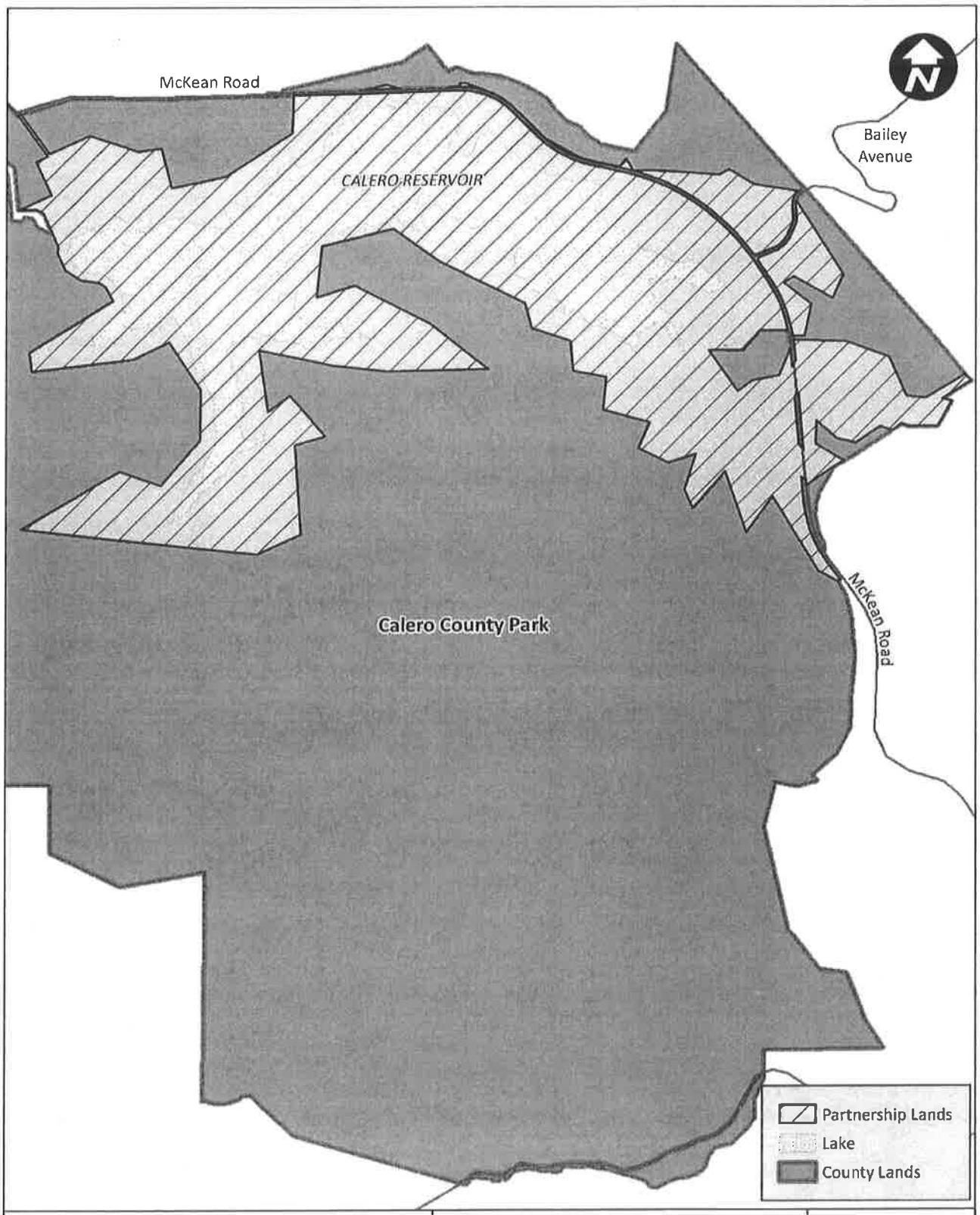
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Anderson Reservoir at Anderson Reservoir County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 700 1,400 2,800 Feet



SANTA CLARA COUNTY PARKS

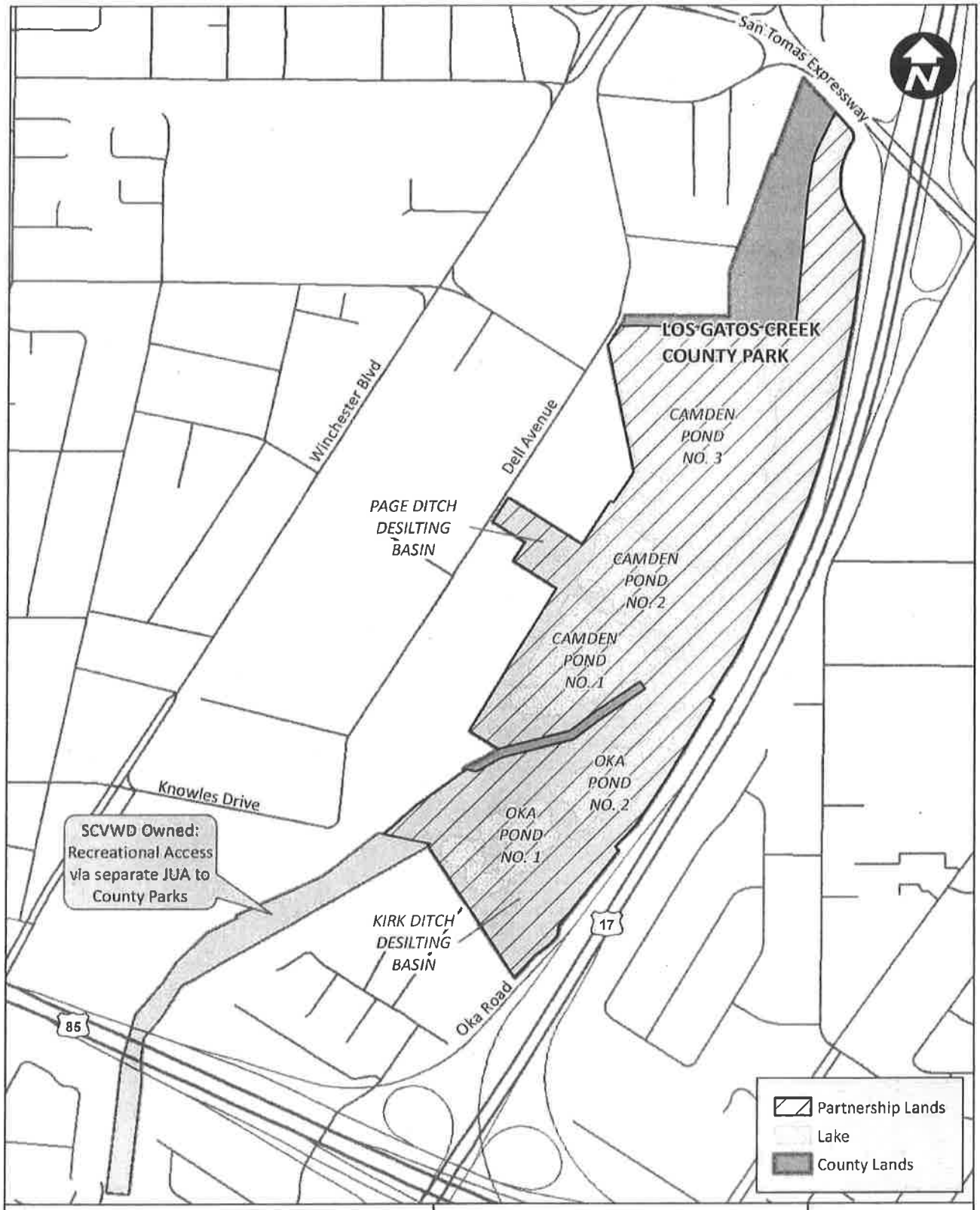
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Calero Reservoir at Calero County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 300 600 1,200 Feet



SANTA CLARA COUNTY PARKS

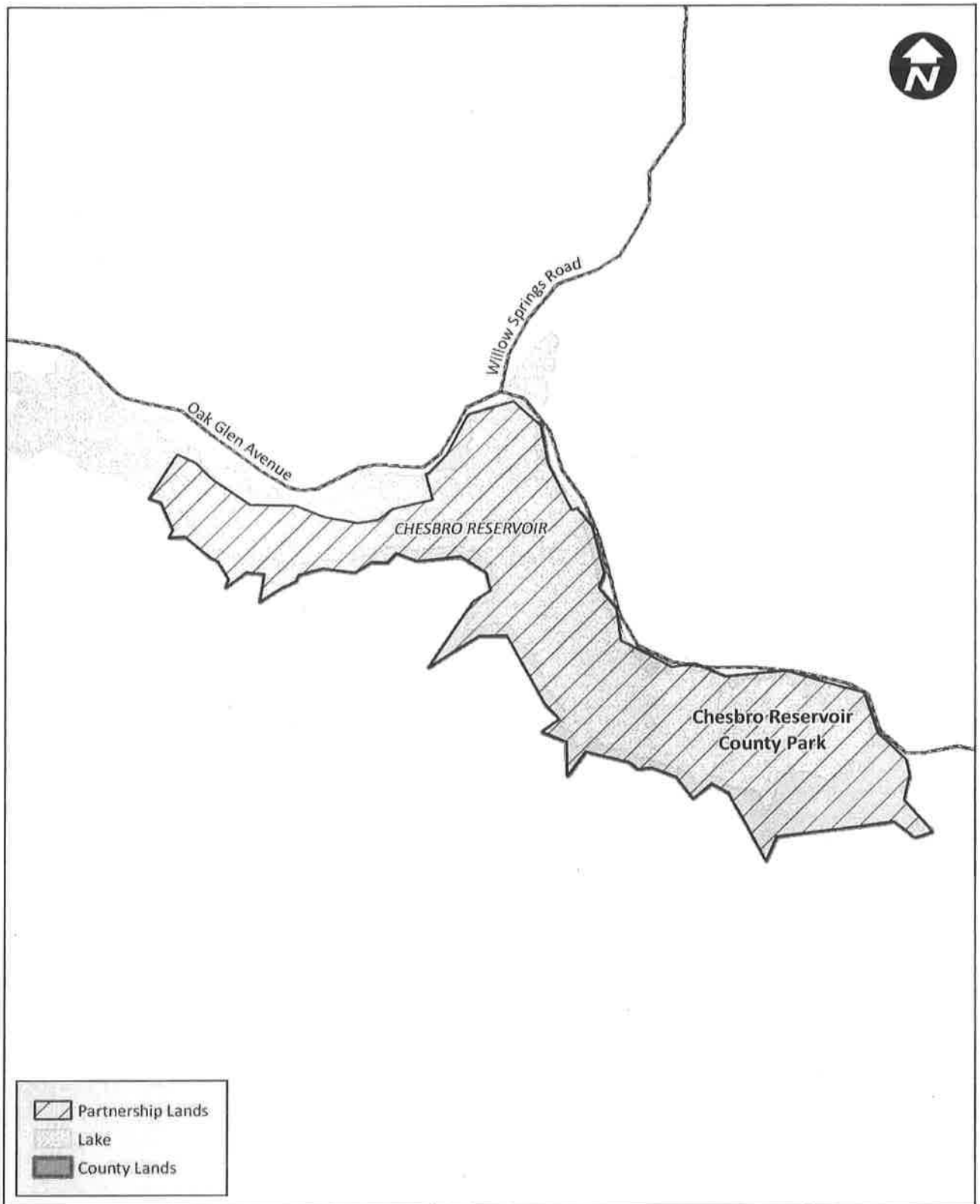
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Camden Ponds at Los Gatos Creek County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 150 300 600 Feet



SANTA CLARA COUNTY PARKS

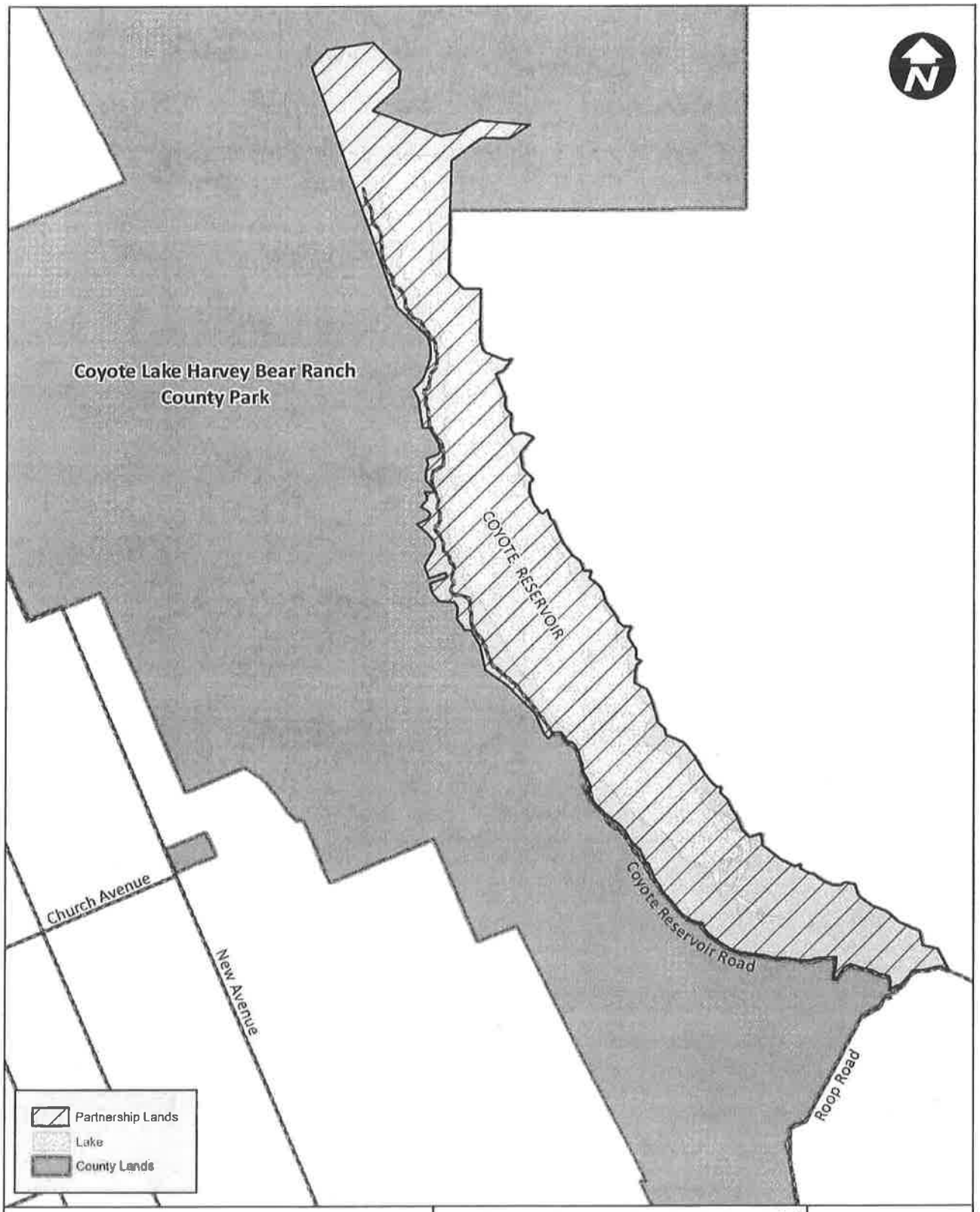
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Chesbro Reservoir at Chesbro Reservoir County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 250 500 1,000 Feet



SANTA CLARA COUNTY PARKS

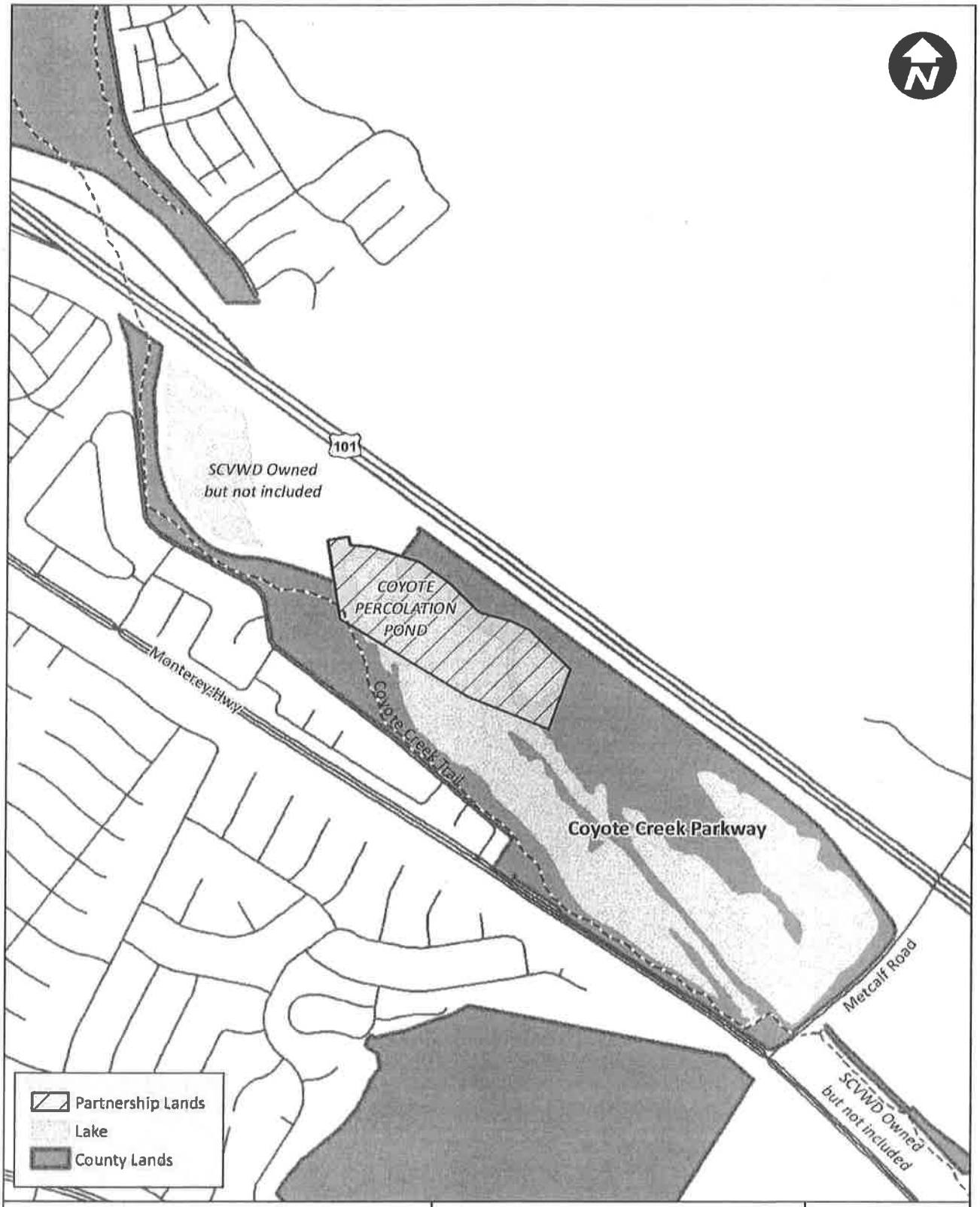
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Coyote Reservoir at Coyote Lake Harvey Bear Ranch County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 500 1,000 2,000 Feet



SANTA CLARA COUNTY PARKS

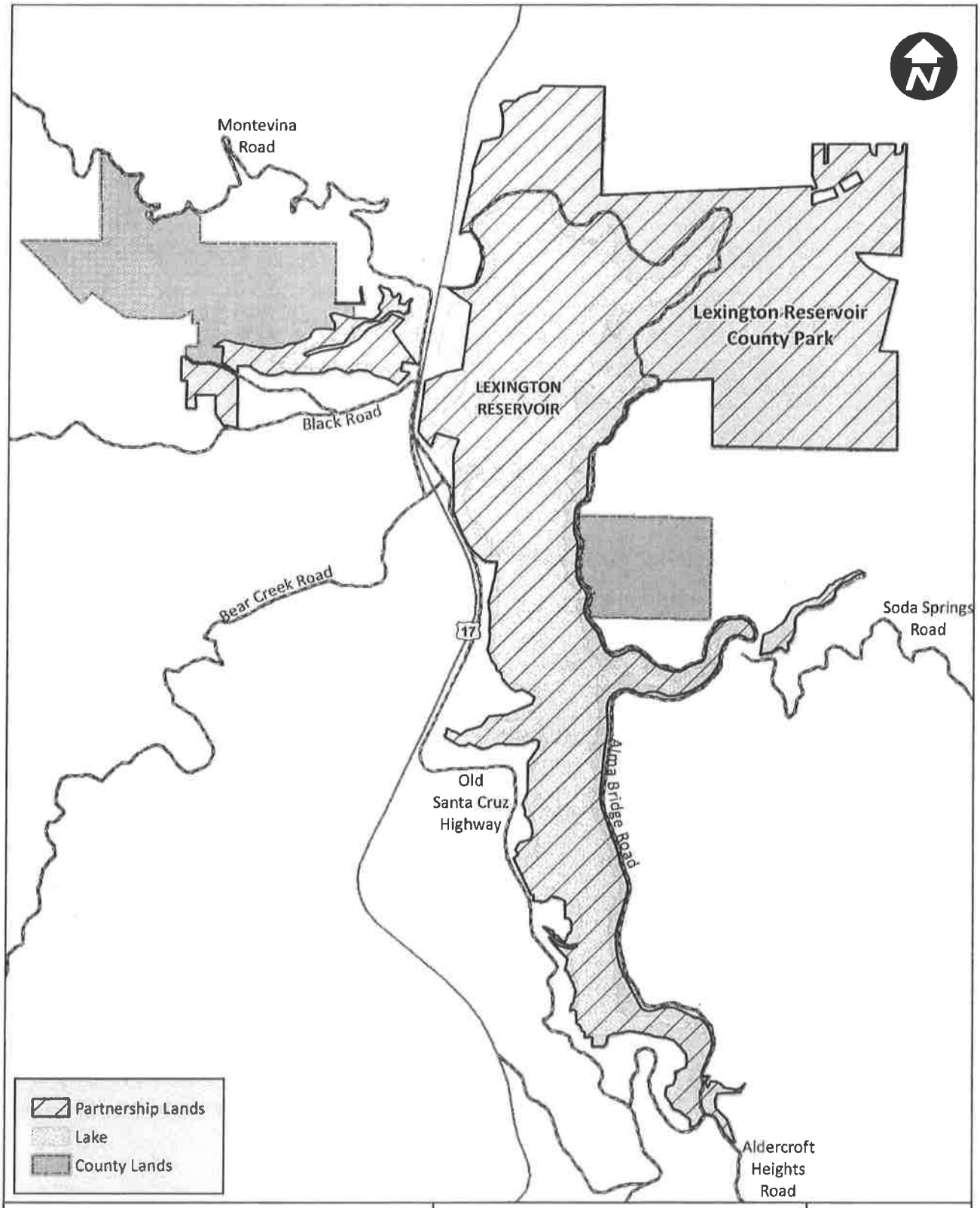
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Coyote Pond at Coyote Creek Parkway
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 175 350 700 Feet



SANTA CLARA COUNTY PARKS

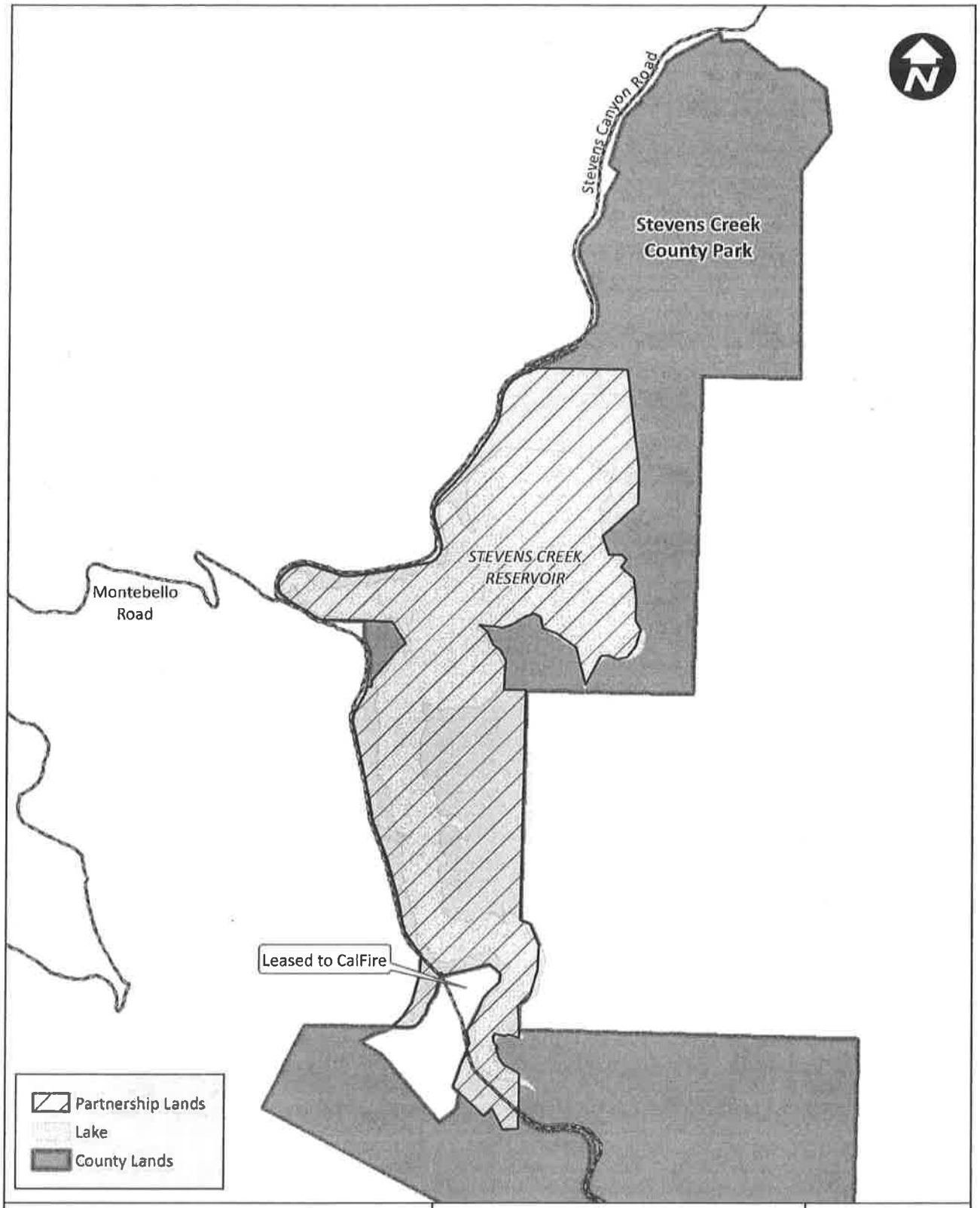
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Lexington Reservoir at Lexington Reservoir County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 350 700 1,400 Feet



SANTA CLARA COUNTY PARKS

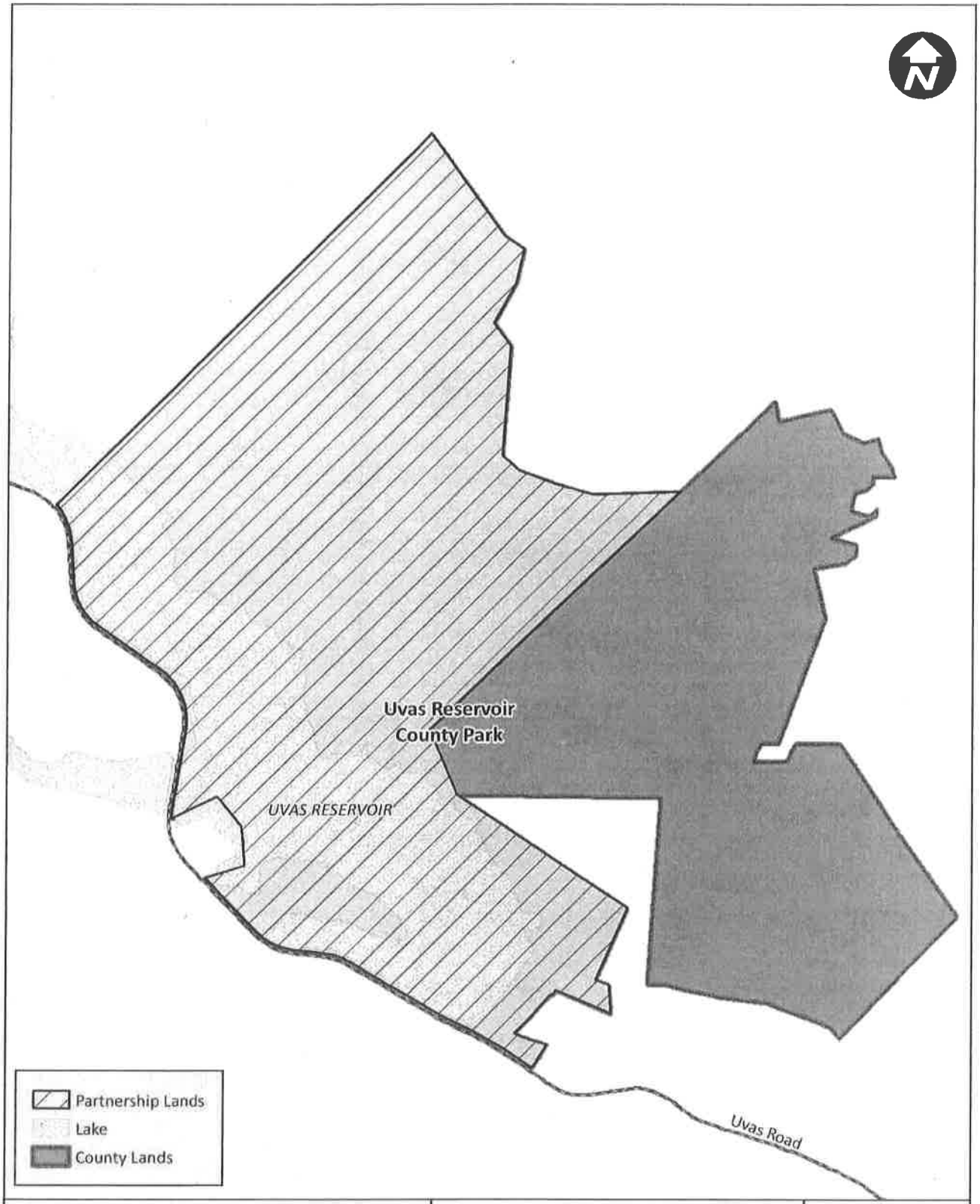
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Stevens Creek Reservoir at Stevens Creek County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 200 400 800 Feet



SANTA CLARA COUNTY PARKS

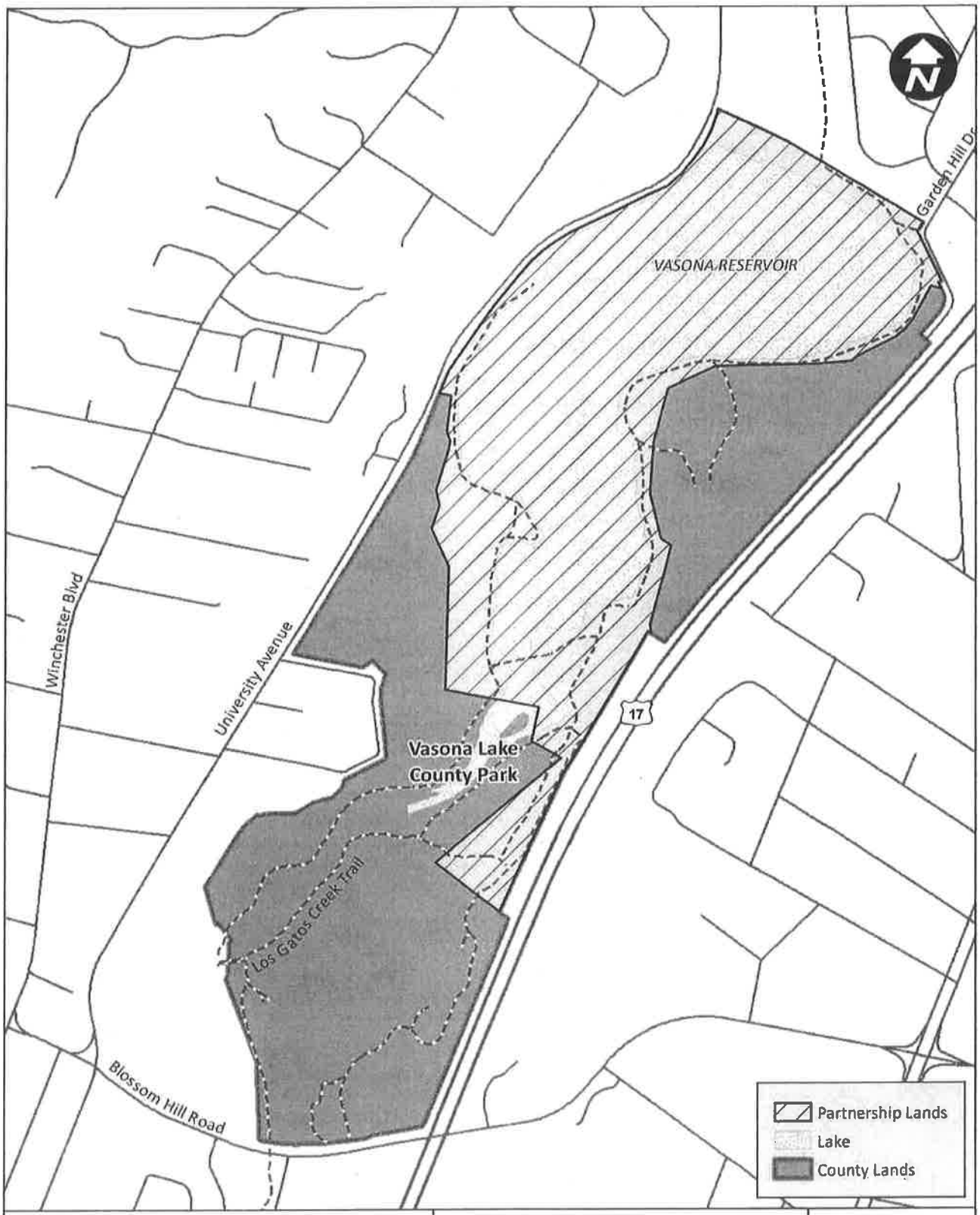
This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Uvas Reservoir at Uvas Reservoir County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 250 500 1,000 Feet



SANTA CLARA COUNTY PARKS

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Vasona Reservoir at Vasona Lake County Park
SCVWD Partnership Agreement Lands

July 16, 2018

Created By: JF

Scale: 0 125 250 500 Feet

EXHIBIT C
JOINT RESOLUTION (SHARED PRINCIPLES)

RESOLUTION NO. _____
[ORIGINAL SEPERATELY SIGNED]

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AND THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT APPROVING SHARED PRINCIPLES AS A FRAMEWORK FOR THE LAND USE RELATIONSHIP BETWEEN THE PARTIES

WHEREAS, the County of Santa Clara Board of Supervisors ("County") and the Board of Directors of the Santa Clara Valley Water District ("District") held a joint meeting on May 18, 2017 related to public recreation at District property, including reservoirs and other joint engagements between the parties; options to develop a master partnership agreement between the parties that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including trails development, natural resource management, and public recreation at District facilities to obtain direction regarding mutual commitments and processes to coordinate efforts directly for, or associated with, recreation, including planned land acquisition, construction of recreational improvements, pond/lake and stream reconfiguration, and trail development; and,

WHEREAS, based on direction from both Boards at the May 18, 2017 meeting, County and District staff have collaborated to develop certain shared principles (the "Shared Principles") as stated herein below:

1. **Common Goals and Service Populations.** The District and the County share common goals and service populations. A portion of our land holdings are inextricably linked, and the public does not recognize any demarcation in ownership, but rather values flood protection, safe clean water, environmental stewardship and the seamless access and recreational experience our joint system provides. Our agencies have worked together for the common good of the Santa Clara County community for over 60 years.

    a. The Santa Clara Valley Water District Act ("District Act"), along with the District's Board-approved Ends Policies, sets out District powers and goals which, in some instances, are aligned with the County's park purposes and goals, including the following:
        i. Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out purposes as defined in the District Act (Section 4c (7) of the District Act).
        ii. Preserve open space and support the County park system in a manner consistent with carrying out purposes as defined the District Act

(Section 4c (8) of the District Act).

iii. The District has the power to acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the District (Section 5 (16) of the District Act).

b. The County's Charter provides powers to operate and fund Parks and Recreation functions. The County General Plan identifies numerous strategies, policies, and goals to support a regional system of parks and trails and to protect natural resources, including water quality, and biotic habitats. The general plan further identifies inter-jurisdictional coordination as a key strategy to achieving these goals.

In support of County's General Plan, the Board-approved Strategic Plan establishes the Parks mission and vision:

i. Provide, protect, and preserve regional parks lands for the enjoyment, education, and inspiration of this and future generations.

ii. Create and manage a sustainable, vibrant system of regional parks and trails where exceptional visitor services enrich the human spirit and offer all people the opportunity to connect with the County's protected natural, cultural, historic and scenic resources, consistent with responsible resource stewardship.

iii. The County General Plan also includes a policy and implementation goals supporting flood protection measures, including resource conservation, preservation of riparian vegetation and habitat, recreation, and scenic preservation of county streams and creeks.

2. **Public Access/Recreation Compatible with Watershed Protection.** Providing safe, reliable drinking water, providing for a safe and healthy community and environment through managing natural resources, and mitigating flood risk may be compatible with providing public access and recreational use of the shared system of land and facilities managed by the District and the County, subject to the California Environmental Quality Act ("CEQA") and approval from the various permitting agencies.

3. **Shared Natural Resources Stewardship Goals.** Both the County and the District have a shared responsibility for watershed stewardship relative to each agency's powers and purpose.

4. **Collaboration Leverages Our Strengths and Avoids Waste.** Collaboration on jointly funded District and County projects or endeavors, leveraging our individual strengths, and optimizing each agencies' resources, as appropriate, can maximize the public good and generate efficiencies to each agency. This collaborative approach should be consistently defined as a line staff responsibility and the leadership of each agency should seek to empower its staff to make decisions that promote our mutual goals. A periodic review of the working relationship between the agencies to ensure implementation of this collaborative culture would be beneficial;

WHEREAS, the purpose of these Shared Principles is to frame the District-County land use relationship for existing and future agreements and interactions relating to County parkland and District properties. These Shared Principles shall be re-evaluated every five years so that the District and County may determine whether to update or revise the Shared Principles which shall only be done by approval of both the County's Board of Supervisors and the District's Board of Directors; and

WHEREAS, County's Board of Supervisors and District's Board of Directors individually retain their full legislative discretion to take other actions with respect to this Resolution as each may deem appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, and the Board of Directors of the Santa Clara Valley Water District, that the Shared Principles are hereby adopted and approved.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____

S. JOSEPH SIMITIAN, President
Board of Supervisors

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President, Board of Supervisors.
ATTEST:

_____

MEGAN DOYLE, Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

_____
Shirley R. Edwards, Deputy County Counsel

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District, on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
RICHARD P. SANTOS, Chair
of the Board of Directors

ATTEST:

_____
Michele King,
Clerk of the Board of Directors

APPROVED AS TO FORM:

_____
Brian C. Hopper
Sr. Asst. District Counsel

MEMORANDUM OF AGREEMENT
BETWEEN THE COUNTY OF SANTA CLARA AND THE
SANTA CLARA VALLEY WATER DISTRICT
REGARDING LAND USE RELATIONSHIP

This Memorandum of Agreement (MOA) is made and entered into by and between the County of Santa Clara (County), a subdivision of the state of California, and the Santa Clara Valley Water District, a special district created by the California Legislature (District).

A. Whereas, the District is vested with the authority to provide comprehensive water management for all beneficial uses and protection from flooding with the County of Santa Clara; and,
B. Whereas, the County is vested with the authority to construct, manage, maintain, operate, and improve park and recreational facilities and experiences in Santa Clara County; and,
C. Whereas, both District and County own real property throughout Santa Clara County; and,
D. Whereas, County and District held a joint meeting on May 18, 2017 related to public recreation at District property; joint engagements between the parties; options to develop a master partnership agreement between the parties that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including but not limited to trails development, natural resource management, planning activities, and public recreation at District facilities; and,
E. Whereas, the District and County considered and approved a Joint Resolution of Shared Principles relating to their land use relationship and interactions on County parkland and District properties; and,
F. Whereas, both parties see the benefits of this collaboration and have a desire to pursue implementing opportunities for the Shared Principles and have determined that each party brings unique expertise, experience, landholdings and interests necessary to accomplish the objectives outlined above and below.

NOW, THEREFORE, the parties agree as follows:

A. PURPOSE AND SCOPE.

The purpose of the proposed Shared Principles is to frame the District-County land use relationship for existing and future agreements and interactions relating to County parkland and District properties. The Shared Principles will be re-evaluated every five years so that the District and County may determine whether to update, revise or terminate the Shared Principles which shall only be done by approval of both the County's Board of Supervisors and the District's Board of Directors; and,

The purpose of this Memorandum of Agreement is to set forth the terms and conditions, scope of work and responsibilities of the County and District associated with their collaboration in seeking mutually agreed upon opportunities to implement the Shared Principles.

Approved: 08/14/2018

B. COUNTY AND DISTRICT RESPONSIBILITIES.

The County and the District have agreed that the following are opportunities for implementing the shared principles and will collectively strive to find mutually agreeable opportunities to implement the shared principles taking into account the sections below. When mutually agreed upon, below mentioned, or other, opportunities to implement the shared principles may be sent to a joint working group comprised of staff from both Parties with authority to make determinations and resolve issues related to this agreement.

1. Coordination and Planning.

a. The District and County will proactively engage each other in long range planning efforts as well as early in the project feasibility and planning stages to identify and discuss appropriate projects, where the County and District have mutual interests. This includes potential integration of recreational enhancements, natural resource stewardship, flood protection, groundwater, water supply, scenic preservation of streams and creeks and public access.

   i. County and District staff will meet at least quarterly to collaborate, review and plan.

   ii. In projects with mutual interests, agency staff will jointly consult, review and coordinate on key deliverables, for example: project schedules, scope of work, CEQA review and permitting, and real estate transactions, etc.

   iii. County will consult with District to identify opportunities where implementation of the Countywide Trail Plan may be incorporated into District projects to optimize public benefit.

b. The County and District will identify and promote joint regional planning concepts into project-specific planning, where practical.

c. The County will consider District requests to use County properties which might be used for flood protection, environmental stewardship and water supply efforts in a manner that is compatible with and which enhances the park purpose of the properties.

d. The District and County will work to establish joint procedures for providing public communications related to water level fluctuations (dam releases, fish stocking, flood management activities, need for temporary or permanent closures.

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2. **Operations and Management of District and County Facilities.**

a. Operation of land and water assets will support and enhance shared mission and goals intended to deliver quality services to the public, subject to permitting from the Resource Agencies.

b. Evaluate existing agreements and policies, as necessary, to identify recommended amendments, and strive to ensure that new agreements and working relationships will maximize collaboration, respect the priorities and requirements of each agency, and minimize conflict.

c. Jointly coordinate on permitting strategies and relationships with regulatory agencies for County and District facilities and projects, when appropriate.

d. Jointly consider where swimming could be permitted in District waters.

e. Meet and attempt to develop mutually agreeable written best practices for reconciling the differences in fish planting requirements which will not have a negative impact on creeks, streams reservoirs and percolation ponds.

f. Almaden, Chesbro, Guadalupe and Uvas Reservoirs have no active recreation; District shall consider any formal County proposal to operate them under a management agreement.

g. Determine options in which the County rangers or Sheriff's deputies can assist with enforcement actions on District lands.

h. Continue joint funding of the invasive mussel program.

i. Allow for District advertisement and signage on all County facilities staged at or on District properties.

j. Provide for District access and operations, and maintenance of stream and precipitation gauges for flood protection and groundwater recharge program.

k. The District and the County will work to establish joint written procedures and protocols regarding water quality management, monitoring, reporting, and joint public communications by the Parties regarding water quality matters (including but not limited to algal bloom response, use of algaecides, removal or non-removal of fish/wildlife carcasses, management of odor, management of hazardous materials, installation of temporary and/or permanent signage)

l. Consistent with Section 6 of the Master Partnership Agreement, the joint working group will address operational, administrative and processing issues that may arise over time through written protocols.

m. The District and the County will work to establish joint written procedures to govern fishing events and fish stocking, including:
   i. Clear delineation of District, County and third-party roles and responsibilities.

C. AMENDMENTS.

This MOA may only be amended through a writing signed by both parties.

D. TERM.

This MOA shall have a term of five (5) years and may be extended for successive five-year terms based upon written approval by both parties served prior to the expiration of the term then in effect. Approval may be given by the County Executive, or designee, and the District's Chief Executive Officer, or designee.

D. TERMINATION.

Either party may terminate this MOA without cause by providing the other party with six months' prior written notice. This MOA shall automatically terminate upon the rescission by the elected body of either party of the Shared Principles.

E. FUNDING; COSTS.

The parties shall each be solely responsible for any and all costs associated with their responsibilities under this MOA, unless otherwise mutually agreed to in writing.

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////SIGNATURES FOLLOW ON NEXT PAGE////

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F. EFFECTIVE DATE AND SIGNATURE.

This Memorandum of Agreement shall be effective (the "Effective Date") upon the date of the last party to sign this MOA below. The parties indicate agreement with this Memorandum of Agreement by their signatures below.

SANTA CLARA VALLEY WATER DISTRICT:

By: _____

RICHARD P. SANTOS, Chair
Directors of the Board of Directors

Date: _____

ATTEST:

_____
Michele King, Clerk of the Board of Directors

Date: _____

APPROVED AS TO FORM:

_____
Brian C. Hopper,
Sr. Asst. District Counsel

COUNTY OF SANTA CLARA:

By: _____

S. JOSEPH SIMITIAN,
President of the Board of Supervisors

Date: AUG 1 4 2018

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

_____
Megan Doyle, Clerk of the Board of Supervisors

Date: AUG 1 4 2018

APPROVED AS TO FORM AND LEGALITY:

_____
Shirley R. Edwards
Deputy County Counsel

F. EFFECTIVE DATE AND SIGNATURE.

This Memorandum of Agreement shall be effective (the "Effective Date") upon the date of the last party to sign this MOA below. The parties indicate agreement with this Memorandum of Agreement by their signatures below.

SANTA CLARA VALLEY WATER DISTRICT:

By: _____
RICHARD P. SANTOS, Chair
Directors of the Board of Directors

Date: August 14, 2018

ATTEST:

_____
Michele King, Clerk of the Board of Directors

Date: August 14, 2018

APPROVED AS TO FORM:

_____
Brian C. Hopper,
Sr. Asst. District Counsel

COUNTY OF SANTA CLARA:

By: _____
S. JOSEPH SIMITIAN,
President of the Board of Supervisors

Date: AUG 14 2018

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

_____
Megan Doyle, Clerk of the Board of Supervisors

Date: AUG 14 2018

APPROVED AS TO FORM AND LEGALITY:

_____
Shirley R. Edwards
Deputy County Counsel